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Buchanan County General District Court
1012 Walnut Street, Suite 309
Grundy, VA 24614

Virginia State Bar Public Case Digest

2023 Fiscal Year

Updated April 12, 2023¹

I. CRIMINAL CONDUCT

In the Matter of Nosuk Pak Kim

VSB Docket No. 22-021-125149

Consent to Revocation

August 5, 2022

- Kim pleaded guilty to two counts of Evasion of Income Tax Assessment.
- Kim's conviction was based on her receipt of hundreds of thousands of dollars in her attorney trust account, which she used to pay personal and business expenses. Kim did not report the receipt of these funds on her income taxes. These transactions resulted in Kim owing \$868,924.54 in unpaid taxes.
- Kim acknowledged that her actions were willful.

II. DISHONESTY

In the Matter of Joseph Ray Pope

VSB Docket No. 21-031-121122

Revocation

Hearing Before Disciplinary Board

July 1 and July 15, 2022

- After Pope separated from his wife, Pope wanted to reconcile and his wife did not. Purporting to be a Catholic priest, Pope sent his wife, a devout Catholic, a series of emails encouraging her to reconcile with Pope. As the Catholic priest, Pope told his wife that she could not take communion and that she was committing "a grave sin against

¹ Disciplinary cases are included in these written materials shortly after the Memorandum Orders are published. For some matters, the time to note an appeal may not have expired, or an appeal may have been noted after a case was included. For recent information regarding pending appeals, check the Virginia State Bar's website.

God” unless she had made every possible attempt to reconcile the marriage. Pope denied sending the emails both in court proceedings and before the Board, but the Board found that Pope’s denial was not credible.

- Pope also sent his wife an email purporting to be someone who was helping to care for Pope. The email accused the wife of “terrible and demented treatment” of Pope. Pope denied sending this email as well.
- Pope sued his wife and her neighbor alleging that the wife’s efforts to determine the true author of the emails violated the Stored Communications Protection Act. Pope eventually nonsuited the lawsuit.
- Pope also falsified emails that made it appear that someone was making complaints about him to his law firm. Pope testified falsely about these emails in a subsequent protective order proceeding, and also filed a lawsuit complaint under a pseudonym alleging that his wife “and her enablers” had contacted Pope’s colleagues in order to “smear[] and embarrass[] him.”
- Pope emailed his wife’s attorney to advise her that her daughter’s father had engaged Pope’s firm to represent him in a custody dispute against the wife. This was not true, and the daughter’s father later said that he never understood that he had engaged Pope or his firm.
- Pope and his wife sought to obtain protective orders against each other. To attempt to support his request for a protective order, Pope drafted an affidavit for a neighbor, which the neighbor said contained lies. Pope also “commanded” the neighbor not to talk to his wife or her counsel regarding his testimony.
- After obtaining a protective order against his wife, Pope made three complaints that she had violated the protective order. Two complaints involved his wife’s contact with his law firm after Pope falsely represented that he represented the father of the wife’s daughter. One complaint involved his wife staying with a neighbor because Pope alleged that the neighbor’s house was within 100 feet of him. The court later amended the protective order to clarify that the wife could stay with the neighbor.
- A judge who reviewed Pope’s legal actions stated that Pope was “using the legal system to threaten people” and engaging in “emotional terrorism.”
- In Pope’s settlement agreement for his divorce, Pope included language by which his wife purported to with “all past, present, and future claims and allegations” that Pope engaged “in any wrongful or criminal acts” during the marriage, including “ethical misconduct.”

- Rules Violated: 3.1 (Meritorious Claims and Contentions); 3.3(a)(1) (Candor Toward The Tribunal); 4.3(b) (Dealing With Unrepresented Persons); 8.1(a), (d) (Bar Admission and Disciplinary Matters); 8.4(b-c) (Misconduct).
- Aggravating Factors: dishonest or selfish motive, pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary process, deceptive practices in the disciplinary process, refusal to acknowledge wrongful nature of conduct, vulnerability of victim, and considerable experience.
- Mitigating Factor: no disciplinary record.

In the Matter of Johnnie Louis Johnson, Jr.

VSb Docket No. 23-000-127359

Revocation

Hearing Before Disciplinary Board

December 16, 2022

- Reciprocal proceeding from the District of Columbia. Johnson contested reciprocal disbarment in Virginia.
- Johnson failed to inform his client of rules applicable to attorney's fees in workers compensation claims, charged the client excessive fees, submitted a fee petition based on false assertions, engaged in "flagrant dishonesty," and made misleading statements about the fee he collected during the DC bar's investigation.
- The Board found that Johnson failed to prove any of the factors enumerated in Paragraph 13-24.C by clear and convincing evidence, and reciprocally revoked Johnson's license to practice law in Virginia.

In the Matter of Harry Tun

VSb Docket No. 23-000-127881

Consent to Revocation

February 9, 2023

- Reciprocal proceeding from the District of Columbia.
- When applying to renew his membership with the U.S. District Court for the District of Maryland, Tun stated that he had never been disciplined by any court or bar authority, which was not true.
- The District of Columbia Court of Appeals disbarred Tun for violating Maryland Rules of Professional Conduct 3.3(a)(1) and 8.4(b)(c) and (d). Tun also consented to disbarment in Maryland.

In the Matter of Denis Charles Englisby

VSB Docket No. 22-032-123636
Two-Year Suspension
Hearing Before Disciplinary Board
November 17-18, 2022

- Englisby agreed to represent a client in a contested custody and visitation matter that had already been pending before the Juvenile & Domestic Relations Court. His client, the mother of young twin girls, had been physically abused from the children's father. Englisby's client wanted sole custody.
- Two days before an evidentiary hearing to determine custody in the matter, Englisby left a voicemail message instructing his client not to come to court because "the guardian ad litem is on our side."
- When the hearing convened, Englisby claimed not to know where his client was. The matter was delayed while Englisby attempted to call his client. He was not able to reach her because she was at work.
- The hearing went forward in the client's absence. The children's father was the only witness to testify. Englisby did not have evidence or testimony to rebut the father's claims. The judge ordered joint custody, and her written opinion criticized Englisby's client for not appearing. Englisby appealed the decision without consulting his client, and without informing her of the alternative option to seek a re-hearing.
- The guardian ad litem contacted Englisby's client to find out why she was not there, and the client told the guardian ad litem that she had been instructed not to come.
- The guardian ad litem filed a bar complaint. In response to the bar complaint, Englisby claimed that he had forgotten he told his client not to appear and that he did not know the hearing was an evidentiary hearing. However, at the hearing, Englisby claimed that he remembered telling his client not to come and was attempting to get her to testify by phone.
- Rules Violated: 1.1 (Competence); 1.2(a) (Scope of Representation); 1.3(a) (Diligence); 1.4(b) (Communication); 1.7(a)(2) (Conflict of Interest: General Rule); 4.1 (Truthfulness In Statements To Others); 8.1(a) (Bar Admission and Disciplinary Matters).
- Aggravating Factors: Prior disciplinary record, multiple offenses, pattern of making decisions for this and other clients without communicating with them, dishonest or selfish motive, vulnerability of his client and the harm done to his client, substantial experience in the practice of law, lack of remorse and refusal to acknowledge wrongful nature of misconduct.

In the Matter of Brian Jeffrey Rosenberg

VSB Docket No. 23-000-126587

Indefinite Suspension With Right to Petition for Reinstatement After 90 Days

Agreed Disposition Before Disciplinary Board

September 12, 2022

- Reciprocal proceeding from Maryland.
- Rosenberg was assigned to pursue an unlawful detainer action. His filing was rejected, and Rosenberg failed to tell his supervisor and the client. Instead, Rosenberg initially misrepresented to his supervisor and client that the case was pending and had been continued.
- Rosenberg's readmission in Virginia is contingent upon his readmission to Maryland.

In the Matter of Russell Nardy Allen

VSB Docket No. 22-031-124251

Six-Month Suspension

Agreed Disposition Before Disciplinary Board

October 5, 2022

- Allen was appointed to represent a client in criminal matters in which the client had already pleaded guilty. The client told Allen several times that he wanted to withdraw his plea, but Allen did not move to withdraw the client's plea prior to the sentencing hearing.
- Instead, Allen reached a sentencing agreement with the Commonwealth, without the client's consent. During the sentencing, the client stopped the hearing when he learned that Allen had made an agreement without his consent.
- After the sentencing, Allen told the client, through an intermediary, that he was filing papers for a new trial. In fact, Allen did not request a new trial at that time. Allen later conveyed to the intermediary that the new trial was denied, which was also untrue. When Allen was asked for a copy of the denial, he did not respond.
- Allen later filed a request for a new trial, but it was dismissed as untimely and because the client had pleaded guilty and agreed to a sentencing order.
- In response to the bar complaint, Allen said he moved to rescind the plea agreement, which was not true.
- When answering the charges filed by the bar, Allen acknowledged he made mistakes but said he did not intentionally misrepresent that he had filed a motion to withdraw the guilty plea. Allen accepted responsibility for his errors and misstatements.

- Rules Violated: 1.1 (Competence); 1.2(a) (Scope of Representation); 1.3(a), (c) (Diligence); 1.4(a-c) (Communication); 8.1(a), (d) (Bar Admission and Disciplinary Matters); 8.4(c) (Misconduct).

In the Matter of Isaac Philip Rabicoff

VSB Docket No. 22-042-125771

Public Reprimand Without Terms

Agreed Disposition Before Subcommittee

December 12, 2022

- During an approximately two-year period, Rabicoff filed 49 patent infringement lawsuits in California federal court. In 29 of the 49 cases, he never sought admission *pro hac vice*.
- In one of the cases, Rabicoff appeared on a pleading as “Pro Hac Vice admission pending” even though he had not yet applied for *pro hac vice* admission.
- In the same case, Rabicoff and his local counsel filed second and third amended complaints without leave of court and in violation of Federal Rule of Civil Procedure 15. When opposing counsel moved to strike the amended complaint, Rabicoff presented an argument that the court determined “defied Rule 15’s plain language” and common sense. Rabicoff missed the hearing on the motion to strike and when the court issued a show cause order, Rabicoff argued that he missed the hearing because it was scheduled two days before it occurred. In fact, the hearing had been scheduled eight weeks in advance.
- The court ordered Rule 11 sanctions against Rabicoff because of his frivolous arguments and misleading statements. It sanctioned Rabicoff \$1,000, which he paid.
- The Standing Committee on Professional Conduct also investigated Rabicoff’s serial filings and ordered him to pay \$9,193 in *pro hac* fees, which he paid.
- Rules Violated: California Rules 3.1(a)(2) (Meritorious Claims and Contentions); 3.3(a)(1) (Candor Toward the Tribunal); 8.4(c-d) (Misconduct).

In the Matter of Stephen A. Strickler

VSB Docket No. 21-021-122646

Public Reprimand Without Terms

Hearing Before Disciplinary Board

October 28, 2022

- Strickler’s client was injured by a tractor trailer while driving for her employment. Strickler handled the worker’s compensation claim. The client hired a different attorney to represent her in the tort claim.

- Strickler attended mediation of the tort claim in order to attempt to convince the worker's compensation insurance carrier to waive or reduce its lien against the tort recovery. The tort claim settled for \$850,000, but Strickler did not succeed in getting the carrier to waive or reduce its lien.
- After the tort settlement, Strickler attempted to persuade his client to pay him a \$35,000 fee, then a \$30,000 fee, and finally a \$17,500 fee from the tort settlement. The client would not agree.
- Tort counsel's office wrote Strickler a \$7,500 check. Strickler told tort counsel's office not to copy the client on the letter transmitting the check. Tort counsel described the fee as for work on the worker's compensation case.
- On the day Strickler received the check, he emailed his client requesting a fee of \$17,500-\$20,000. He did not disclose that he had received \$7,500 from tort counsel at that time. However, five days later, Strickler disclosed the \$7,500 he received to his client, but he described it as "assistance to him in achieving the third-party mediated settlement of \$850,000."
- The Worker's Compensation Commission found that the \$7,500 was "for services rendered by Strickler on the claimant's worker's compensation case." The Commission ordered that a \$6,000 fee was appropriate, and Strickler returned \$1,500 of the \$7,500 he received from tort counsel.
- Rule Violated: 8.4(c) (Misconduct).
- Aggravating Factors: recent six-month suspension for a flagrant conflict of interest, substantial legal experience.
- Mitigating Factors: Respondent's reputation, compliance with terms of prior suspension, and lack of actual damage to Respondent's client or the tribunal.

In the Matter of Doris Weston Gelbman

VSB Docket No. 22-070-126200

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

March 9, 2023

- When Gelbman was preparing to file a *lis pendens* on an emergent basis in order to stop the sale of a home, the notaries in Gelbman's office were not available. Gelbman used an employee's notary stamp to place her notarial seal on the *lis pendens* without her knowledge.
- The *lis pendens* with the forged notarization was filed with the court.

- After receiving the bar complaint, Gelbman admitted to the forgery and expressed remorse. She also filed a motion to release the *lis pendens*.
- Rules Violated: 3.3(a)(1) (Candor Toward The Tribunal); 8.4(b-c) (Misconduct).
- Terms: Probation, six hours of CLE in legal ethics, read notary handbook, letter of apology.

III. SAFEKEEPING PROPERTY

In the Matter of Tina Tracy Neyhart

VSB Docket No. 22-101-124323

Revocation

Hearing Before Disciplinary Board

August 25, 2022

- Neyhart accepted a \$750 flat fee to represent a client in her divorce. Neyhart drafted a separation agreement and gave it to her client, but then Neyhart and her client did not communicate with each other for more than a year.
- Approximately 16 months after accepting the representation, Neyhart closed her law practice, along with the bank accounts for the practice, and moved to Delaware. Neyhart did not inform her client that she closed her practice.
- The client attempted to file the signed separation agreement with the court and learned that Neyhart had never filed for divorce on her behalf. The client emailed Neyhart and requested that she file the divorce papers. Neyhart said she would send the client her file, but the client needed to hire new counsel. Although Neyhart claimed she sent the file to her client, the client never received it.
- The VSB investigator asked Neyhart to provide a copy of the client's file and financial records regarding the \$750 advanced fee, but Neyhart did not provide them to the VSB. Neyhart also told the investigator that she had refunded the \$750 advanced fee from her personal account, but Neyhart never provided documentation to support the claimed refund.
- In Neyhart's answer to the charges, she claimed she had refunded the \$750 more than a year earlier. The Board found that Neyhart never returned the fee or the file.
- Rules Violated: 1.4(a) (Communication); 1.15(b)(4-5) (Safekeeping Property); 1.16(d-e) (Declining or Terminating Representation); 8.1(c) (Bar Admission and Disciplinary Matters).

- Aggravating Factors: Prior discipline for unrelated trust accounting violation, false claims in answer to bar's charges, substantial experience, lack of remorse, indifference to making restitution, and vulnerability of client.
- Mitigating Factors: None.

In the Matter of Thomas Martin Liles

VSB Docket No. 23-060-127513

Consent to Revocation

March 9, 2023

- Liles obtained a \$35,000 judgment for his client. Liles deposited the judgment into his personal account and spent some of the funds.
- Liles's firm discovered the misappropriation and confronted him, and Liles admitted to his misconduct.

In the Matter of Richelle Denise Moore

VSB Docket Nos. 22-060-123620, 22-060-123639

Three-Year Suspension Without Terms

Agreed Disposition Before Disciplinary Board

August 19, 2022

- Moore, who was serving as the executor of an estate, failed to file a timely Third Account and failed to respond to three letters from the Commissioner of Accounts.
- Moore switched firms and then left the practice of law without notifying the Commissioner of Accounts or the beneficiaries. Moore also failed to appear for a show cause hearing.
- Moore failed to file a timely response to the bar complaint and failed to respond to the VSB investigator's attempts to contact her.
- Moore was removed as administrator, and a successor fiduciary was appointed. She was ordered to deliver all estate documents and funds to the new fiduciary by a date certain but failed to comply with the deadline. Prior to entering into the agreed disposition, Moore delivered the estate documents and property to the successor fiduciary.
- Rules Violated: 1.4(a) (Communication); 1.3(a-b) (Diligence); 1.15(b)(4) (Safekeeping Property); 8.1(c) (Bar Admission and Disciplinary Matters); 8.4(b) (Misconduct).

Virginia State Bar ex rel Seventh District Committee v. Bradley Glenn Pollack

Case No. CL21001114-00

VSB Docket Nos. 21-070-120540, 21-070-121524, 21-070-121548

Six-Month Suspension with Terms
Hearing Before Three-Judge Court
July 1, 2022²

- Pollack accepted advanced fees on behalf of three different clients. Pollack did not deposit any of the advanced fees into his trust account.
- Pollack also admitted that he did not keep the books and records required by Rule 1.15.
- Rules Violated: 1.15(b)(3), (5), (c)(1-4), (d)(1-4) (Safekeeping Property); 1.16(d) (Declining or Terminating Representation).
- Terms: Retain a CPA to report to the VSB whether Pollack's trust account is in compliance with Rule 1.15. Alternative sanction is a Certification for Sanction Determination.

Virginia State Bar ex rel Eighth District Committee v. Dale Reese Jensen

Case No. CL21-53

VSB Docket Nos. 20-080-118487, 21-080-121205, 21-080-122456

60-Day Suspension with Terms

July 1, 2022

- Jensen accepted advanced, flat fees that he did not deposit into his trust account. He entered into fee agreements that said that he would not issue any refunds after work began. He also failed to maintain the trust accounting records required by Rule 1.15.
- Jensen delegated many client communications to his staff, two of whom were convicted felons, and failed to respond to clients who directly sought his input. While one former staff member was incarcerated, clients were emailed from an email address bearing that staff member's name.
- In one matter, Jensen's staff member accidentally sent one client's file to someone else. Jensen never advised the client that his file had been misdirected.
- Rules Violated: 1.4(a-b) (Communication); 1.5(a) (Fees); 1.15(a)(1), (b)(3), (5), (c)(1-4), (d)(1-4) (Safekeeping Property); 5.3(a-b), (c)(2) (Responsibilities Regarding Nonlawyer Assistants).

² Pollack has noted an appeal, and the Supreme Court of Virginia stayed Pollack's suspension pending resolution of the appeal.

- Terms: Provide the VSB with proof of compliance with Rule 1.15 every 60 days, provide written policies for compliance with Rule 5.3. Alternative sanction of a six-month suspension.

In the Matters of Susan Page Allen

VSB Docket Nos. 21-031-121188, 22-031-124080

Public Reprimand Without Terms

Agreed Disposition Before Subcommittee

January 4, 2023

- Allen was admitted to the bar in 1983 and has run in her own practice since 2004.
- Allen acted as the escrow agent for six construction loans from a hard money lender. Pursuant to escrow agreements, Allen could only release funds upon written authorization from the lender, and only for the purposes for which the funds were lent.
- Allen knew that her employee and the borrower were friends and that her employee did part-time accounting work for the borrower.
- Allen allowed her employee to write checks and handle transactions regarding the construction loans, and Allen gave the employee access to and allowed the employee to originate wire transfers of monies held in Allen's trust accounts. Allen did not require that the employee receive Allen's authorization for the release of funds from Allen's trust account. Allen did not review or authorize the employee's transactions.
- Allen's employee originated wire transfers resulting in the misappropriation of approximately \$1.2 million during a two-year period. Routine supervision and reviews should have alerted Allen to the problems.
- After two years, Allen was alerted to a potential problem and talked to her employee, who confessed that she had disbursed funds without the lender's knowledge or authorization. Despite this, Allen continued to employ the employee for another two and a half years.
- The lender brought claims against Allen, who settled by paying \$525,000 of her own funds and \$75,000 from her malpractice carrier.
- The employee and borrower were charged with federal crimes. The employee pleaded guilty and was sentenced to 14 months in prison and ordered to pay restitution of \$1,206,953.27. The borrower was found guilty following a trial.
- A review of Allen's records also revealed that she transferred overpayments of real estate taxes from trust to operating without authorization.

- Rules Violated: 1.15(b)(4-5), (d)(3-4) (Safekeeping Property); 5.3(b-c) (Responsibilities Regarding Nonlawyer Assistants).

In the Matter of Timothy Barbrow

VSB Docket No. 22-060-124899

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

September 28, 2022

- Barbrow accepted a \$1,000 advanced legal fee for a bankruptcy matter but did not deposit the fee into his trust account.
- The client said she called Barbrow several times to follow up on her case. Barbrow had no record of the client calling but did not dispute that she called. Barbrow said that he put the client's file away and forgot about it.
- After receiving the bar complaint, Barbrow gave the client a full refund.
- Rules Violated: 1.4(a) (Communication); 1.15(a)(1) (Safekeeping Property).
- Terms: Trust account reviews for one year following determination.

In the Matter of John Paul Gregorio

VSB Docket No. 22-033-126066

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

February 17, 2023

- Gregorio accepted \$5,000 of a \$10,000 flat fee in a criminal matter at the beginning of the representation. He deposited \$4,150 of the \$5,000 into his operating account and not his trust account. He later told the bar investigator that this was a mistake. Eight days later, the balance in Gregorio's operating account had dropped to \$687.57.
- The client terminated the representation before it was complete and requested a refund. Gregorio asserted he had already earned the entire fee at his hourly rate and would not issue a refund.
- Gregorio admitted he was not performing the required reconciliations, but instead was "eye-balling" his accounts.
- Rules Violated: 1.15(a)(1), (b)(3), (d)(3) (Safekeeping Property).

- Terms: Two hours of CLE in ethics, read Lawyers and Other People's Money and LEO 1606, submit to trust account inspections by VSB Investigator. Alternative sanction is a Certification for Sanction Determination.

Virginia State Bar ex rel Fourth District Committee, Section I v. Benjamin Kent

Case No. CL22-6903

VSB Docket No. 22-041-123306

Public Reprimand With Terms

Hearing Before Three-Judge Panel

October 28, 2022

- While Kent's license was administratively suspended for MCLE noncompliance, Kent accepted an \$1,100 advanced legal fee to represent a client who was already represented by court-appointed counsel. Kent did not have a trust account at the time and did deposit the advanced legal fee in a trust account.
- Although the case was pending in Alexandria, Kent had moved to Durham, North Carolina. The client testified that Kent never told him of his location, but Kent disputed this.
- The client decided to accept a plea negotiated by court-appointed counsel and he requested that Kent refund the unearned portion of the \$1,100 advanced legal fee. Kent refused to return the fee and asserted that it was nonrefundable, even though he was suspended for the entire time he was purporting to represent the client.
- Rules Violated: 1.5(b) (Fees); 1.15(a)(1), (b)(3-4) (Safekeeping Property); 5.5(c) (Unauthorized Practice of Law).
- Terms: Two years of probation, eight hours of MCLE, read Lawyers and Other People's Money and Legal Ethics Opinion 1606, one year of trust account inspections by a VSB investigator, restitution of \$1,100, required notification to all clients of his geographic location.

In the Matter of Jon Franklin Mains

VSB Docket No. 22-051-125095

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

November 18, 2022

- Mains paid a referral fee for a personal injury case but did not disclose the referral fee to the client until after he paid it.
- Mains told the bar investigator that the fee was for services rendered and not a referral fee.

- Mains did not maintain the required trust accounting records.
- When Mains was disbursing the settlement, he overlooked the fact that he had already disbursed \$25,000 of the total settlement. Mains replaced the missing trust funds with funds from his operating account.
- Rules Violated: 1.4(b) (Communication); 1.5(e) (Fees); 1.15(a)(3), (b)(5), (c)(1-2) (Safekeeping Property); 8.1(a) (Bar Admission and Disciplinary Matters).
- Terms: Six hours of MCLE in trust accounting and ethics, read Lawyers and Other People's Money and Legal Ethics Opinion 1606, one year of trust account inspections by VSB investigator, engage a CPA.

In the Matter of Don Leonard Scott, Jr.

VSB Docket No. 22-010-126153

Public Reprimand without Terms

Agreed Disposition Before Subcommittee

March 20, 2023

- Scott was retained on a matter in September 2020. The client's friend paid Scott an initial fee of \$5,000. Scott did not deposit the fee in a trust account.
- The proposed fee agreement, which was not signed by the client or his friend, stated that the fee was "non-refundable and earned upon receipt."
- The client's friend made three additional payments of \$5,000. Scott did not deposit any of the payments in a trust account.
- Rules Violated: 1.5(a) (Fees); 1.15 (a)(1-2), (c)(1-2) and (4) (Safekeeping Property).

In the Matter of Jenifer Shirey

VSB Docket Nos. 22-021-124993, 22-021-125448

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

February 14, 2023

- In the first of two matters, Shirey accepted an advanced legal fee in cash and was terminated before the fee was fully earned. She issued a refund check from her operating account, and said she did so because she did not have checks for her trust account.
- In the second matter, Shirey accepted \$12,500 in advanced legal fees but only earned \$1,900 before the representation was terminated. As of the date of the disposition, Shirey had not issued any refund.

- Shirey said she only reconciled her accounts twice a year and no longer maintains disbursement and deposit ledgers.
- Rules Violated: 1.15(b)(4), (c)(1-2, 4), (d)(3-4) (Safekeeping Property); 1.16(d) (Declining or Terminating Representation).
- Terms: issue a refund in the second matter, submit to review of trust account records by VSB Investigator. Alternative sanction is a Certification for Sanction Determination.

In the Matter of John Edward Williams

VSB Docket No. 21-041-120750

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

July 20, 2022

- In an IRS collections matter, Williams missed several deadlines. Williams also did not respond to client communications regarding the upcoming deadlines.
- Williams did not send regular bills. He did not send the client an itemized invoice until approximately nine months after she terminated him, and he billed the client to prepare and transmit the file to her new counsel. Williams charged 14% interest on the bill.
- Although Williams told the bar investigator that he deposited the client's advanced legal fee into a trust account, the funds were actually deposited into a personal account that Williams regularly used for client funds. Between November 2015 and December 2021, Williams overdrafted the account four times.
- Rules Violated: 1.3(a) (Diligence); 1.4(a-c) (Communication); 1.5(a-b) (Fees); 1.15(a)(1), (3), (c)(1-2); d(1-4) (Safekeeping Property).
- Terms: VSB Investigator to inspect trust account records, one year of probation.

IV. COMPETENCE/DILIGENCE/COMMUNICATION/GENERAL NEGLECT

In the Matter of Edward Emad Moawad

VSB Docket No. 22-000-124925

Revocation

Agreed Disposition Before Disciplinary Board

September 22, 2022

- Reciprocal discipline matter from Maryland.
- While representing three different immigration clients, the filings from Moawad's law firm contained significant errors that delayed the relief sought. In one of the matters, Moawad offered to take remedial action but did not do so.

- Moawad had non-attorney staff members meet with clients. When problems arose, Moawad did not respond to clients' efforts to contact him.
- When the Maryland bar asked Moawad to respond to his clients' complaints, Moawad made several misrepresentations, including that his partner was responsible for the clients and that the firm had forgiven certain fees due and charged reduced fees.
- Rules Violated: Maryland Rules 1.1 (Competence); 1.3 (Diligence); 1.4 (Communication); 1.5 (Fees); 5.3 (Supervision of Nonlawyer Assistants); 8.1 (Bar Admissions and Disciplinary Matters); 8.4 (Misconduct).

Virginia State Bar ex rel Fifth District Committee v. James McMurray Johnson

Case No. 22-4967

VSB Docket No. 21-052-122107

90-Day Suspension With Terms

Hearing Before Three-Judge Panel

October 21, 2022

- Johnson accepted a medical malpractice case in October 2014. He filed suit in September 2016, just before the statute of limitations ran. In order to serve the defendants, Johnson needed to have a certificate of merit from an expert; however, Johnson did not have one when he filed suit and he did not have one when the deadline to serve process expired in September 2017. He nonsuited the case in October 2019, which was two years after the deadline to serve the defendants.
- Johnson continued to serve as counsel until November 2020, when his license was suspended in another matter. Johnson never procured an expert to provide a certificate of merit, nor did any experts tell Johnson that they did not believe his client had a meritorious case.
- During the approximately six-year representation, Johnson's client called his office several times to express frustration regarding the lack of communication and progress on her case.
- Rules Violated: 1.3(a) (Diligence); 1.4(a) (Communication).
- Terms: Two years of probation.
- Alternate Sanction: One year and one day suspension.

In the Matter of Bruce Patrick Ganey

VSB Docket No. 22-060-124491 (Case No. CL22003892)

90-Day Suspension (effective May 20, 2023)

Hearing Before Three-Judge Panel

March 20, 2023

- Ganey was retained in a land dispute matter involving a client's neighbor. The client paid a \$2,000 advanced legal fee.
- On April 8, 2021, Ganey sent a letter to his client. Ganey advised his client to "wait and see" what offer was proposed by the neighbor. Ganey and his client discussed the matter on the phone later that day.
- The client called and texted 14 times over the next 6 months. The client also emailed Ganey and stopped by his office. Ganey did not respond.
- When interviewed in August 2022, Ganey told the VSB investigator that he would contact the client. Ganey failed to do so. Ganey also stated he would provide documentation to the bar demonstrating how he earned the fee but failed to do so.
- Rules Violated: 1.3(a) (Diligence); 1.4(a) (Communication); 1.15(b)(3) (Safekeeping Property).

In the Matter of Duncan Kenner Brent

VSB Docket No. 22-052-124277

Public Reprimand With Terms

Agreed Disposition Before District Committee

February 15, 2023

- While representing a client in a personal injury case, Brent filed suit in general district court just before the statute of limitations expired. On the return date, the defendant had not been served and Brent expressed his plan to nonsuit. However, Brent never nonsuited the case and he believed that the court purged the matter after six months.
- Brent did not communicate with his client for nearly three years. He acknowledged that he allowed the matter to "drop[] off his calendar."
- Rules Violated: 1.3(a) (Diligence); 1.4 (a-b) (Communication).
- Terms: Document processes for ensuring deadlines are met, six hours of CLE in law office management. Alternative disposition is certification for sanction determination.

In the Matter of Justin Todd Daniel

VSB Docket No. 22-051-124240

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

September 28, 2022

- Daniel represented a client in a personal injury case on a contingency basis. He filed the lawsuit on the date the statute of limitations expired.
- The month before trial, Daniel decided he needed to conduct a site inspection. A motion to compel the inspection failed because discovery was already closed. Daniel recommended that his client nonsuit, which he did.
- Daniel re-filed at the end of the six-month tolling period but took no action to advance his client's case. A trial was scheduled but continued due to the COVID-19 pandemic.
- Daniel stopped communicating with the client, which resulted in the client filing a bar complaint. After receiving the bar complaint, Daniel apologized and the client agreed that Daniel would continue representing him.
- Rule Violations: 1.1 (Competence); 1.3(a) (Diligence); 1.4(a) (Communication).
- Terms: Daniel to hire supervisor for law practice, six hours of CLE in law office management.

In the Matter of S.W. Dawson

VSB Docket No. 22-060-124330

Public Reprimand with Terms

Agreed Disposition Before Disciplinary Board

September 21, 2022

- Dawson charged \$2,500 to review Complainant's criminal case for potential post-conviction relief. After the review, Dawson informed Complainant that he believed evidence existed to prove that Complainant's trial counsel was ineffective and recommended a petition for writ of habeas corpus. Dawson charged Complainant an additional \$5,000 and drafted and filed a habeas petition in Chesapeake Circuit Court on May 13, 2021. The petition did not cite any legal authority or have any supporting documents attached to support the assertions within the petition.
- The Attorney General filed a Motion to Dismiss on July 9, 2021, asserting that trial counsel was not ineffective, that the petition failed to provide any supporting evidence, and that the petition should be dismissed without a hearing pursuant to Va. Code § 8.01-654(B)(4). In a cover letter to Dawson accompanying the Motion to Dismiss and a proposed order, the Attorney General requested that Dawson endorse the proposed order or "prepare a competing order." The Attorney General wrote that if no order was filed within 30 days, she would submit a proposed order waiving Dawson's signature "pursuant to Rule 1:13."
- Dawson did not respond to the Attorney General, file any motion, or submit an order.

- In a letter dated September 13, 2021 to the Chesapeake Circuit Court and Dawson, the Attorney General requested that the petition be dismissed with prejudice, included a proposed order, and requested waiver of Dawson's signature pursuant to Va. Supreme Court Rule 1:13.
- By order entered October 4, 2021, the Chesapeake Circuit Court dismissed the petition pursuant to Va. Code § 8.01-654(B)(4).
- On October 5, 2021, Dawson mailed a Brief in Opposition to the Motion to Dismiss to the Clerk of the Chesapeake Circuit Court. Dawson did not cite any legal authority or case law and did not provide any evidence to support the factual claims asserted within the brief. The Clerk received the brief on October 12, 2021.
- On October 27, 2021, Dawson received a copy of the dismissal order.
- On October 28, 2021, Dawson mailed a letter to Complainant informing him that the petition had been dismissed. Dawson wrote that Complainant could appeal the trial court's order to the Supreme Court of Virginia or file a habeas petition in federal court, but Dawson did not offer to do either. Dawson ended the letter by stating "I will now be closing my file in this matter."
- In February and March 2022, Dawson wrote two letters to Complainant offering to file a Bill of Review but did not file one. Dawson provided a refund of \$1,000 to Complainant with the March 2022 letter but wrote "this is not a refund."
- Dawson could not provide a case activity log to account for his time because he does not keep a time log on habeas cases with a flat fee.
- Rules Violated: 1.1 (Competence); 1.3(a) (Diligence); 1.4(b) (Communication); 1.5(a) (Fees); 1.16 (d) (Declining or Terminating the Representation)
- Terms: no new RPC violations during the next 2 years, 24 CLE credits hours during the next two years, refund of \$6,500 to Complainant, and alternative sanction of one-year suspension if non-compliant.

In the Matter of Leslie Anne Shopf

VSF Docket No. 22-053-124212

Public Reprimand Without Terms

Agreed Disposition Before Subcommittee

October 4, 2022

- Shopf was appointed to represent a client on second DWI charges. Shopf's records reflected that she never communicated with the Assistant Commonwealth's Attorney ("ACA") at any time before the client's court date.
- The morning of the client's court date, the ACA contacted Shopf and said that she had just learned that Shopf may not have received discovery. They agreed to continue the

case. Shopf left a voicemail for the client that he did not need to appear, but the client did not receive the voicemail until after he appeared. The client said the judge told him that if he had not appeared, he would have had another warrant issued for a failure to appear. Shopf did not appear.

- A new court date was set. Shopf still never received or reached out to the ACA for discovery. Two days before the court date, the new ACA contacted Shopf about discovery. Shopf agreed to continue the case again.
- The client filed a bar complaint and Shopf withdrew from the case. The client's new counsel convinced the prosecutor not to prosecute the charge against the client.
- Rule Violated: 1.3(a) (Diligence).

In the Matter of Janet A. Smith

VS B Docket No. 22-052-123737

Public Reprimand Without Terms

Agreed Disposition Before Subcommittee

September 6, 2022

- Smith was retained to pursue a client's citizenship application. Smith did not tell the client when she moved her office. When the client contacted Smith to arrange to pick up of original documents that Smith was holding, Smith did not respond promptly. Smith acknowledged that she was not reachable for "several weeks."
- Smith did not submit a timely response to the bar complaint. She told the bar investigator that she did not receive the complaint, but three days after the complaint was mailed to Smith, she texted her client that she "received a notice of a bar complaint that you guys placed against me."
- Rules Violated: 1.4(a) (Communication); 8.1(a), (c) (Bar Admission and Disciplinary Matters).

In the Matter of Kelly Lynn DiCorrado

VS B Docket No. 22-022-125525

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

December 16, 2022

- DiCorrado was appointed to represent a client on a Petition for Civil Commitment as a Sexually Violent Predator. When she was appointed, the clerk asked her to contact the Assistant Attorney General ("AAG") to set a probable cause hearing within 90 days. DiCorrado did not contact the AAG, and the probable cause hearing was not held until

more than nine months later. DiCorrado also did not contact her client until approximately nine months after she was appointed.

- At the probable cause hearing, the court asked the parties to schedule a quick trial date due to the delay that had already occurred. DiCorrado had difficulty finding a date that would work and did not get a trial date until more than 10 months later.
- Rules Violated: 1.3(a) (Diligence); 1.4(a-b) (Communication)
- Terms: Six hours of CLE

In the Matter of James Patrick Hodges

VSB Docket No. 22-053-125672

Public Reprimand With Terms

Agreed Disposition Before Subcommittee

March 9, 2023

- Hodges represented a defendant LLC in a breach of lease matter. Hodges received a check for a \$2,500 advanced legal fee, which he kept in his desk for several months before depositing. Although Hodges performed significant work on the case before he deposited the check, he did not keep any time records.
- After answering the complaint, Hodges did not communicate with the LLC representative for approximately 20 months. For most of that time, there was no activity on the matter, which was pending during the COVID-19 pandemic. However, Hodges did not advise the LLC representative when the plaintiff nonsuited its case against all defendants except Hodges's client.
- Hodges ultimately told the LLC representative that he would have to hire another lawyer because Hodges was no longer in private practice. However, Hodges did not file a motion to withdraw until nearly eight months later.
- Rules Violated: 1.4(a) (Communication); 1.15(b)(3) (Safekeeping Property); 1.16(c-d) (Declining Or Terminating Representation).
- Terms: Six hours of CLE in legal ethics. Alternative sanction is Certification for Sanction Determination.

V. CONFLICTS OF INTEREST

In the Matter of Shena Dixon Mason

VSB Docket No. 22-070-124601

One-Year and One-Day Suspension

Agreed Disposition Before Disciplinary Board

October 4, 2022

- Mason practiced for 25 years and never had a trust account. She did not deposit any of the flat or advanced fees she accepted in these matters into a trust account.
- Mason knew Husband and Wife for 10 years and had previously represented both of them. Husband and Wife separated, and Mason represented Husband's new girlfriend in her divorce from her husband.
- After the separation, Husband consulted with Mason regarding a traffic matter and paid a \$50 consultation fee. Husband provided Mason with his address as part of the consultation.
- Following Mason's consultation with Husband, Wife asked Mason for help in the divorce. Mason agreed to serve the divorce by publication, which required that Husband's address be unknown, even though Mason knew Husband's address and knew that Wife likely knew husband's address.
- While representing Wife in the divorce, Mason represented Husband on a traffic misdemeanor and failures to appear. Mason never obtained the informed consent of Husband or Wife to the concurrent representation. Additionally, Husband contacted Mason about representing him in the divorce, and Mason did not tell Husband she could not represent him. Instead, Mason told Wife that Husband had asked her to represent him in an immigration matter and that Husband "has traffic issues that impact his immigration."
- Mason also accepted an advanced fee to represent Husband on charges that had already been dismissed. After Husband's girlfriend discovered the charges were no longer pending, Mason provided only a partial refund with no accounting.
- During the bar's investigation, Mason misrepresented that she did not know where Husband was living and the timing of her representation of Wife.
- After charges were certified, Mason contacted the bar to express her remorse about the handling of the matter and admitted to all misconduct. Mason also fully refunded all fees, opened a trust account, and registered for eight hours of ethics CLE.
- Rules Violated: 1.1 (Competence); 1.3(a), (c) (Diligence); 1.5(a) (Fees); 1.6(a) (Confidentiality of Information); 1.7(a-b) (Conflict of Interest); 1.15(a)(1), (b)(3-4), (c)(2) (Safekeeping Property); 1.16(a)(1), (d) (Declining or Terminating Representation); 3.3(a)(1) (Candor Toward the Tribunal); 8.1(a) (Bar Admission and Disciplinary Matters); 8.4(a-c) (Misconduct).

Virginia State Bar ex rel Sixth District Committee v. Joseph Taylor Brown

Case No. CL21003866-00

VSF Docket No. 20-060-118813

Public Reprimand With Terms³

Hearing Before Three-Judge Panel

Hearing Dates: March 3 and 31, 2022

Order Date: August 26, 2022

- Brown represented a client in various litigation matters, including the client's divorce proceeding and a domestic assault and battery pending in Spotsylvania Circuit Court. Brown had made appearances in both matters.
- In client's divorce proceeding, client's husband had sought a divorce on the ground of adultery, among others. In her answer filed by Brown, client denied the adultery and sought spousal support. The divorce proceeding entered a period of inactivity, but remained pending and Brown remained counsel of record. Brown testified that he intended to file a motion to withdraw during this period of inactivity and that he advised his client he would withdraw but did not do so.
- Brown reconnected with his client after hearing from the clerk of the court that the client needed to submit proof of compliance with the Fresh Start program or appear for a hearing in the assault and battery matter. Brown emailed the client to confirm the divorce proceeding remained pending and he was her counsel of record.
- Brown and his client exchanged numerous text messages, which became increasingly sexual in nature. In those text messages, Brown also gave his client legal advice regarding her divorce.
- Brown met his client at a hotel and engaged in sexual relations. The client's husband learned of the sexual encounter at the hotel. Brown knew that his client's husband was monitoring client's whereabouts.
- Eight days after the sexual relations, Brown filed a motion to withdraw as counsel in the divorce proceeding pending in Spotsylvania Circuit Court, citing a conflict of interest. Almost two months after the sexual relations, Brown's motion to withdraw was granted.
- After Brown withdrew, his client represented herself *pro se* in the divorce, which was ultimately entered by consent and incorporated a marital property settlement agreement that provided no spousal support for Brown's client.

³ Brown has noted an appeal. Public reprimands are stayed pending appeal.

- Rules Violated: 1.7(a)(2) (Conflict of Interest).
- Terms: Within one year, take and pass the MPRE and complete 250 hours of community service.

In the Matter of Alisa Lachow Correa

VS B Docket No. 22-041-124371

Agreed Disposition Before Disciplinary Board

Public Reprimand With Terms

March 21, 2023

- Correa loaned \$25,000 to a friend, who secured the loan with real estate in Maryland. Correa filed a Security Agreement of Debt in the Maryland court.
- About eight months later, Correa agreed to represent the same friend in his Chapter 13 bankruptcy. The friend signed a fee agreement acknowledging and waiving the conflict of interest but stating that he wanted Correa to file on his behalf so he could get his car back and because he did not have money to pay anyone else.
- Correa filed the Chapter 13 petition and listed herself as a secured creditor for \$25,000. The initial petition also showed that the friend had paid Correa \$1,300 of a \$2,000 fee; however, Correa subsequently amended the petition to reflect that she was not charging a fee.
- The bankruptcy court issued an order requiring Correa to show cause why she should not be disqualified for a conflict of interest. The court stated that Correa's conflict was "unmistakable and obvious." Correa was disqualified. She then objected to the Chapter 13 plan that she had filed.
- Rule Violated: 1.7(a)(2) (Conflict of Interest: General Rule).
- Terms: two years of probation, six hours of CLE including four in legal ethics and two in bankruptcy. Alternate sanction is a one-year and one-day suspension.

Virginia State Bar Ex Rel Second District, Section I Committee v. Kevin Benedict Rack

Case No. CL22-6513

VS B Docket No. 22-021-123804

Public Reprimand With Terms

Agreed Disposition Before Three-Judge Panel

December 27, 2022

- Rack was hired to draft a trust agreement for the benefit of the complainant's daughter. The trust agreement named Rack as trustee.
- Rack later employed his law firm to provide legal services to the trust without obtaining the complainant's written consent.

- The only asset in the trust was a life insurance policy. Because of a change in the tax laws, Rack said that there was no longer a tax benefit to maintaining the trust. Before transferring the policy to the trust beneficiary, Rack applied for a policy loan for \$2,500 in order to pay legal fees that the trust owed his law firm. Rack did not disclose this fee to the complainant and asserted that he did not do so because the trust was his client and not the complainant.
- After investigating, the insurance company credited the complainant for the \$2,500 it paid pursuant to the loan, plus interest and attorney's fees.
- Rules Violated: 1.5(b) (Fees); 1.7(a-b) (Conflict of Interest).
- Terms: 12 hours of CLE in legal ethics.
- Alternate Sanction: Certification for Sanction Determination

VI. FEES

In the Matter of Victor Rivera-Nieves

VSB Docket No. 22-032-123842

Six-Month Suspension

Agreed Disposition Before Disciplinary Board

October 14, 2022

- Rivera-Nieves was licensed only in Washington State and Puerto Rico but maintained a Virginia office where he practiced immigration law.
- Rivera-Nieves charged a \$7,500 flat fee to represent a client for her application for asylum. Rivera-Nieves charged an initial payment of \$2,500 and then monthly \$500 payments until paid in full. Rivera-Nieves asserted that he considered the fees earned when received, and his fee agreement said that if a client terminated him before the case was concluded, the client would still have to pay the flat fee in full.
- Rivera-Nieves did not deposit any of the fees received from the client into a trust account. He received a total of \$6,500.
- Rivera-Nieves said he mailed the application but never verified that it was received. The client said that Rivera-Nieves did not respond to many of her attempts to contact him. Rivera-Nieves never sent the client a copy of her application. The client later discovered that an application was never filed and that the deadline to file the application had passed.
- Rivera-Nieves said he would refund \$5,000 of the \$6,500 paid because that was all he could afford. Rivera-Nieves made installment payments over approximately four months in order to repay the \$5,000.

- In February 2022, Rivera-Nieves's privilege to practice law in Virginia was suspended for three years. This suspension will run consecutively with the prior suspension.
- Rules Violated: 1.3(a-b) (Diligence); 1.4(a) (Communication); 1.5(a) (Fees); 1.15(a)(1) (Safekeeping Property); 1.16(a)(1) (Declining or Terminating Representation).

In the Matter of William Hale Thompson, Jr.

VS B Docket No. 21-041-121592

Public Reprimand With Terms

Agreed Disposition Before Disciplinary Board

October 18, 2022

- Thompson accepted a \$5,000 advanced, flat fee to represent a client up to the time of trial. The fee agreement said that the "fee will be earned by attorney as representation of client commences."
- The \$5,000 flat fee was deposited into Thompson's IOLTA, but less than a month later and before he had completed the representation, Thompson's IOLTA balance was well below \$5,000.
- The client terminated Thompson and requested her file and a refund. Thompson did not send the client her file, an accounting for the portion of the fee he believed he had earned, or a refund.
- Rules Violated: 1.5(a) (Fees); 1.15(b)(3), (5) (Safekeeping Property); 1.16(e) (Declining or Terminating Representation).
- Terms: six hours of CLE, trust account review by VSB investigator, engage CPA to review trust account and assess compliance with Rule 1.15.
- Alternative Sanction: six-month suspension.

Virginia State Bar ex rel Second District, Section I Committee v. Stephen Phillip Givando

Case No.: CL22-7315

VS B Docket No. 22-021-124529

Public Reprimand With Terms

Agreed Disposition Before Three-Judge Panel

- Givando agreed to represent a friend's son on murder and other related charges. Initially Respondent agreed to represent the son for free, although he told the bar investigator that he expected he would be paid back later.
- After Givando had represented the son for a few years and had not received any payment, Givando and his friend agreed that Givando would represent her to pursue the child

support arrearage owed by the son's father, and that Givando would keep what he collected as payment for representing the son in the criminal matter. Givando obtained a consent order requiring the father to pay \$35,000 in child support arrearages.

- Subsequently, Givando's friend received an inheritance and paid Givando \$15,000, which she understood would go toward the \$35,000 that Givando expected to collect.
- Givando collected a total of \$46,500. He refunded \$2,000 and told his friend that he owed her an additional \$10,000. However, as of the date of the agreed disposition, Givando had not paid his friend the \$10,000.
- Rules Violated: 1.5(b) (Fees); 1.15(a)(1), (b)(4-5) (Safekeeping Property).
- Terms: repay the promised \$10,000 in monthly installments of \$1,000, read Lawyers and Other People's Money, LEO 1606 and Rule 1.15, submit to inspection of trust accounting records. Alternative sanction of a one-year and one-day suspension.

VII. TERMS VIOLATIONS

In the Matter of Alfred Lincoln Robertson, Jr.

VSB Docket No. 22-042-125695

12-Month Suspension

Hearing Before Disciplinary Board

August 26, 2022

- In 2016, Robertson entered into an agreed disposition for a Public Reprimand with Terms. The terms included a five-year probation period and stated that Robertson would violate the probation if he violated Rules regarding diligence, communications, and bar admissions and disciplinary matters. Robertson agreed that the sanction for violating the term would be a 12-month suspension.
- In June 2021, the Board heard another matter involving Robertson and found that he violated Rules regarding diligence, communications, and bar admissions and disciplinary matters. Robertson's license was suspended for one year and one day.
- Because some of the misconduct found in the June 2021 hearing occurred during the probation period, the District Committee found that Robertson violated the probation term and certified the sanctions question to the Board.
- The Board imposed the alternative sanction of a 12-month suspension.

VIII. UNAUTHORIZED PRACTICE OF LAW

Virginia State Bar ex rel Fifth District Committee, Section I v. Jay Arthur Rosenberg

Case No. 22-04387
VSB Docket No. 20-051-119124
Consent to Revocation
Jul. 6, 2022

- Rosenberg was not licensed to practice law in Virginia.
- From 2018 through 2021, Rosenberg's firm prepared 2,000-2,200 deeds per year for Virginia-based real estate transactions. The firm subcontracted first drafts of most deeds to a firm in India. A random sampling of deeds prepared by Rosenberg's firm revealed that a significant percentage contained spelling or grammar errors, and some had substantive errors that were not reviewed by a Virginia attorney before being delivered to clients for recordation.
- Rosenberg refused to provide the names of all his firm's Virginia-based clients and refused to submit to a second random sampling of his work.
- Prior to 2021, Rosenberg's firm had no Virginia-licensed employee. Instead, the deeds identified a Virginia attorney who was paid a small monthly retainer to review the India-produced drafts.
- Rules Violated: 1.1 (Competence); 1.3(a) (Diligence); 5.5(c), (d)(1-2) (Unauthorized Practice of Law); 8.1(c-d) (Bar Admission and Disciplinary Matters).

In the Matter of Robert Overbey, Jr.
VSB Docket No. 22-053-124308
Public Reprimand With Terms
Agreed Disposition Before Disciplinary Board
January 13, 2023

- Overbey, who is admitted in DC but not Virginia, appeared in the Fairfax County General District Court to help a friend's son ("the client") who had a summons for reckless driving.
- Overbey filled out an Appearance of Counsel form but did not sign it and left the space for his Virginia State Bar number blank.
- Overbey told the prosecutor that the client was running late and that Overbey was an attorney.
- Overbey then talked to the police officer and showed proof that the client had taken a driver improvement class. The prosecutor then filled out a blue sheet recommending that the client pay a \$100 fine.

- When the client arrived, Overbey gave the client the blue sheet and told him to go pay the fine. The client did not pay the fine, however, and a show cause was later issued.
- Overbey went to court with the client for the show cause. He was asked to sign the sheet memorializing the plea agreement, and he signed it, wrote his DC bar number, and told the prosecutor he wasn't admitted in Virginia. Overbey then engaged in a dialogue with the client and the judge.
- The prosecutor told the judge that Overbey was not licensed in Virginia, and the judge vacated the plea and continued the matter.
- Rules Violated: 5.5(c-d) (Unauthorized Practice of Law); 8.4(c) (Misconduct).
- Terms: No violations of Rule 5.5 for two years.
- Alternate Sanction: Revocation of privilege to practice law in Virginia.

In the Matter of Matthew Taylor Morris

VSb Docket No. 23-022-127437

Public Reprimand with Terms

Agreed Disposition Before Subcommittee

March 20, 2023

- Morris's license was administratively suspended for failing to pay bar dues on October 12, 2022. Morris paid the dues and late fees and was reinstated on November 7, 2022.
- During the 4-week period he was suspended, Morris appeared in Portsmouth courts on behalf of the Commonwealth as an Assistant Commonwealth's Attorney in 82 matters.
- Morris asserted he did not know he was suspended and "didn't know the [bar dues] were due." Morris said he didn't receive any of the documents from the VSB regarding late bar dues or the suspension.
- Term: no new violations for a period of two years, alternate sanction of one-year suspension
- Rule Violated: 5.5(c) (Unauthorized Practice of Law).

IX. MISCELLANEOUS

In the Matter of Patrick Nicholas Anderson

VSb Docket No. 21-041-120807

90-Day Suspension

Hearing Before Disciplinary Board
January 26-27, 2023

- Anderson's client terminated him and requested a chargeback of a \$1,000 installment payment toward the total fee. In response to the chargeback, Anderson asked his associate to contest the chargeback by using Anderson's template letter for these purposes. The associate told Anderson that he believed the letter violated their ethical duties. The associate drafted the letter but refused to sign it.
- Anderson signed and sent the letter, which accused the client of "illegal manipulation of cellular data plans" and said the client was "guilty of committing various types of fraud." He said it was "unfair for a cardholder to commit credit card fraud and receive a chargeback." Anderson also provided a complete copy of the client's file.
- Anderson made similar disclosures for five other clients.
- Rules Violated: 1.6(a-b) (Confidentiality of Information); 1.9(c)(1) (Conflict of Interest: Former Client).
- Aggravating Factors: selfish motive, pattern of misconduct, multiple violations, substantial experience in the practice of law, failure to heed warning of associates.
- Mitigating Factors: No disciplinary record, reputation, full and free disclosure to the Board.

In the Matter of Stacy Tharp Davenport
VSB Docket No. 22-032-124923
Public Admonition Without Terms
Agreed Disposition Before Subcommittee
April 11, 2023

- Davenport, the Commonwealth's Attorney for Chesterfield County, issued a press release announcing an upcoming murder trial. In the press release, Davenport was quoted as discussing the "brutality of [the] murder," despite the fact that the victim's body was never recovered.
- A local television station reported on the story, specifically referring to the statement about the brutality of the murder. A radio show also advertised an upcoming interview with Davenport, and the advertisement also referred to the victim as having been "brutally murdered." Davenport said she had never agreed to talk about the case on the radio show, and, after learning of the advertisement, Davenport did not appear on the show.

- Defense counsel filed and the Court granted a motion to preclude the Commonwealth from making additional public comments about the case. The Court stated that the publicity “present[ed] a substantial risk of interfering with the fairness of this jury trial.”
- Davenport tried the case and the defendant was convicted of first-degree murder. The defendant passed away prior to sentencing.
- Davenport asserted that she did not intend to interfere with the right to a fair trial, that the case had been widely covered in the press before her press release, her press release was based on the public indictment, and no jurors heard or read about the press release.
- Rule Violated: 3.6(a) (Trial Publicity).

Virginia State Bar ex rel Third District Committee v. Kimberly Alice Chandler

Case No. CL22-3378

VSF Docket Nos. 21-032-118348, 21-32-121489, 21-032-121174, 21-032-121192, 22-032-123593

Public Reprimand With Terms

Agreed Disposition Before Three-Judge Panel

November 14, 2022

- While representing a client in a bankruptcy proceeding, Chandler instructed a creditor that she was a “material witness” in “actionable” matters, and that she should not destroy any documents and should expect a federal subpoena. Chandler never issued a federal subpoena.
- With two other parties related to the bankruptcy, Chandler and Elizabeth Egan, another attorney she supervised (see below), threatened criminal action if the creditor did not enter into the settlements Chandler requested. Chandler never followed through on her threats.
- Rules Violated: 3.4(i) (Fairness to Opposing Party and Counsel); 4.3(b) (Dealing With Unrepresented Persons); 5.1(b-c) (Responsibilities of Partners and Supervisory Lawyers; 8.4(a-b) (Misconduct).
- Terms: Two years of probation limited to violations of Rule 3.4(i), alternative disposition of two-year suspension.

Virginia State Bar ex rel Third District Committee v. Elizabeth Farrar Egan

Case No. CL22-3379

VSF Docket Nos. 21-032-121175, 21-032-121223

Public Reprimand Without Terms

Agreed Disposition Before Three-Judge Panel

November 9, 2022

- See Chandler, above.
- Rules Violated: 3.4(i) (Fairness to Opposing Party and Counsel); 8.4(a-b) (Misconduct).

Virginia State Bar ex rel Seventh District Committee v. Leiser⁴

VSB Docket No. 22-070-124954

Case No. 2022-16347

Public Reprimand With Terms

Hearing Before Three-Judge Panel

February 13-14, 2023

- As part of its COVID-related transition plan, the Loudoun Circuit Court limited civil motions to three pages and supporting briefs to five pages, absent leave of court. Despite this limitation, Leiser filed a 14-page motion to dismiss and/or transfer and memorandum of law on behalf of a defendant in a civil matter. Leiser subsequently filed a two-page motion to dismiss and 14-page memorandum of law in support.
- The court's docket manager removed the matter from the docket because the brief exceeded the page limit. Leiser never re-filed his motion or sought leave to file a longer brief.
- Because Leiser did not have his motion to dismiss heard, the plaintiff opposing party moved for a default judgment. Leiser filed a ten-page brief in opposition. Judge Fisher of the Loudoun Circuit Court considered the brief despite Leiser's failure to comply with the page limit and denied the motion for default judgment. Subsequently, Judge Fisher also denied Leiser's motion to dismiss after a hearing.
- Leiser filed a motion to reconsider, in which he accused Judge Fisher of a "superficially clever but ultimately sophomoric and transparent attempt to avoid detection of its chicanery and exposure of the real reason behind its decision" and "pretending to have actually engaged in a good faith analytical process." He asserted that "the relative merits of the parties' arguments were completely irrelevant to [the court's] decision-making process" and that the court's "real" goal was to punish Leiser for filing briefs that exceeded the page limit.
- During the bar's investigation, Leiser continued to attack Judge Fisher's honesty and integrity.
- Leiser told the bar investigator that failing to comply with the page limitation was his "Rosa Parks moment" and said that he "was not going to get out of his seat and move to the back of the bus."

⁴ Leiser has noted an appeal. Public reprimands are stayed pending appeal.

- Rules Violated: 8.2 (Judicial Officials); 3.4(d) (Fairness to Opposing Party And Counsel).
- Terms: three years of probation, 10 hours of CLE in legal ethics and professionalism, counseling with Thomas Spahn. Alternative sanction is a six-month suspension.

In the Matters of Matthew Taylor Morris

VSB Docket Nos. 22-021-125306, 22-022-125347, 22-021-125400

Public Reprimand With Terms

Hearing Before Disciplinary Board

December 16, 2022

- In the first of three matters, Morris represented a criminal defendant who agreed to a 180-day sentence, but wanted to serve it on weekends. The prosecutor told Morris that by statute, the sentence was too long to serve on weekends. Morris did not advise his client of this and the client entered the plea. When the client learned that he could not serve his time on weekends, the client asked to withdraw the plea. The court continued the plea hearing to another date. Morris failed to appear on time for the hearing because he overslept. He appeared later that day, said that he was unaware of the pertinent statute regarding serving time on weekends, and asked to withdraw as counsel. The Court suspended Morris from appearing in any criminal matter in Virginia Beach Circuit Court because of “concern about your fitness or capacity for practicing law.” The Court ordered that the suspension remain in place until Morris provided evidence of his fitness. After his suspension, Morris wrote to at least two clients and claimed that the “tricks used by Commonwealth’s Attorneys and Law Enforcement Officers are dirtier than ever” and he had attempted to “expose these tricks.” He said that the Court suspended him to “prevent me from exposing the web of corruption that runs rampant in our police force, commonwealth attorney’s office, and Courts.” Morris also refused to submit to an interview with the bar investigator.
- In a second matter, Morris failed to notify a client of his suspension before the client’s next court appearance. Morris did not appear at the hearing and the court appointed a public defender. Although Morris charged a flat fee of \$5,000 and did not complete the representation, Morris did not return any of the fixed fee because he said he “put more than \$7,500-\$10,000 worth of time” into the case. Morris again refused to submit to an interview with the bar investigator.
- The third matter involved Morris entering the courthouse with a firearm on two separate occasions. Morris said he did so mistakenly. Morris refused to submit to an interview with the bar investigator on this matter as well.
- Rule Violations: 1.1 (Competence); 1.4(b) (Communication); 8.1(c-d) (Bar Admission and Disciplinary Matters); 8.2 (Judicial Officials); 8.4(b) (Misconduct).

- Aggravating factors: pattern of misconduct, multiple offenses, seriousness of firearm violations, the Court's suspension order, letter attacking integrity of the Court and legal process, bad faith obstruction in refusing to cooperate with the bar investigator.
- Mitigating factors: No disciplinary record, serious personal issues at time of misconduct, remorse for actions, acceptance of responsibility, character letters submitted on Morris's behalf.
- Terms: Attend VSB professionalism course, one year of probation.
- Alternate Sanction: six-month suspension.