

VIRGINIA:

**BEFORE THE THREE-JUDGE COURT PRESIDING
IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA**

**VIRGINIA STATE BAR, *ex rel.*
FOURTH DISTRICT--SECTION II COMMITTEE,**

Complainant/Petitioner

v.

In Chancery No. 04001160

MICHAEL HENRY DITTON

Respondent

FINAL ORDER OF SUSPENSION

THIS CAUSE came on to be heard on the 25th day of August, 2004, for a hearing in this matter, before a Three Judge Court empaneled on March 2, 2004, by designation of the Chief Justice of the Supreme Court of Virginia, pursuant to Section 54.1-3935 of the 1950 Code of Virginia, as amended, consisting of the Honorable William R. Shelton, and the Honorable Barnard F. Jennings, retired Judges of the Twelfth and the Nineteenth Judicial Circuits, respectively, and by the Honorable James W. Haley, Jr., Judge of the Fifteenth Judicial Circuit and Chief Judge of the Three-Judge Court.

Yvonne DeBruyn Weight, Special Assistant Bar Counsel, appeared on behalf of the Virginia State Bar, and the Respondent appeared *pro se*.

WHEREUPON, a hearing was conducted upon the Rule to Show Cause issued against the Respondent, Michael Henry Ditton, which Rule directed him to appear and to

show cause why his license to practice law in the Commonwealth of Virginia should not be suspended or revoked by reason of allegations of ethical misconduct set forth in the Certification issued by a subcommittee of the Fourth District—Section II Committee of the Virginia State Bar.

FOLLOWING the presentation of all testimonial and documentary evidence presented in open court, the Respondent moved to strike such evidence. The Court denied the Respondent's motion and the Respondent presented his evidence.

Following closing arguments by the parties, the Three-Judge Court retired to deliberate, and thereafter returned and announced that it had found, unanimously, and by clear and convincing evidence, the following:

1. The Respondent is an active member of the Virginia State Bar, but is not in good standing. He is presently a resident of the State of Montana.

2. On August 16, 2001, the Virginia State Bar was advised by the Commission on Character and Fitness of the Supreme Court of Montana that it had denied the Respondent's application for admission to the Montana Bar. The Commission found, and the Supreme Court of Montana affirmed upon appeal, that the Respondent had displayed a long history of unlawful and criminal conduct and abuse of legal process.

3. The Respondent has been charged in Virginia with being drunk in public, for driving while intoxicated, and for knowingly obstructing a law enforcement officer in the performance of duty.

4. The latter charge occurred in January of 2000 when personnel from the Alexandria Sheriff's Department sought to execute a Writ of Possession after judgment for unpaid rent was obtained against the Respondent. The Respondent refused entry to

the Sheriff's deputies despite warnings that his continued failure to comply with their instructions to open his door would result in an obstruction of justice charge. Following a forced entry, the Respondent was placed under arrest.

5. The return date on the charge was February 9, 2000; however, the Respondent failed to appear. As a result, the Respondent's bond was forfeited, and Judge Robert Giammittorio issued a *capias* for his arrest.

6. The Respondent also has a long history of filing civil actions against numerous and various defendants on grounds that are, at best, of questionable merit. Much of this *pro se* litigation revolves around his belief that a former law firm from which he was terminated has engaged in a conspiracy against him. That belief has led the Respondent, at various times and in various actions, to sue (1) the U.S. Postal Service, (2) Hewlett Packard, (3) the Legal Times, (3) Bell Atlantic, (4) American Express, (5) the City of Alexandria, (6) Crestar Bank, (7) Allstate Insurance, (8) Lexis Law Publishing, (9) the Virginia DMV Commissioner, and (10) the Department of the Army, to name but a few of the Respondent's targets.

7. The Respondent has filed actions against his former law firm (Holland & Knight) on at least three different occasions. In a 336 page complaint filed in the Eastern District of Virginia (Civil Action # 99-1901), the Respondent again sued Holland & Knight, including in that action 23 other entities as co-defendants.

8. On February 4, 2000, the Honorable Albert V. Bryan, Jr. enjoined the Defendant from initiating any further complaint against Holland & Knight or any other named Defendant without first obtaining leave of court.

9. On August 3, 2000, without obtaining such leave, and in response to his arrest, the Respondent filed an action against the City of Alexandria and 36 co-defendants in the Eastern District of Virginia. Ditton, et al v. City of Alexandria (Civil Action No. 00-1155-A) is 378 pages long (with 22 attachments) and contains 79 counts against the 37 named defendants. The named co-defendants included not only the City of Alexandria, Sheriff Dunning, several deputies, Judge Giammittorio, the Commonwealth of Virginia Director of Social Services, and the US Postal Service, but a number of entities named as co-defendants in the earlier filings who were thereby subject to the injunction of Judge Bryan; namely, the Holland & Knight law firm, a Mr. Scott Morrison, a Mr. Charles Mitchell, and Capitol One Financial Corporation.

10. Among the counts in the Motion for Judgment, the Respondent alleged that the actions of the 37 defendants prevented him from engaging in his profession of the practice of law in Virginia.

11. The Respondent included as co-plaintiffs his two children, Wesley George Ditton and Nathan Michael Ditton, one of whom was at that time a minor and one of whom was nineteen years of age. While there is no particular consistency on the part of the Respondent, in the August 2000 filing he variously refers to himself as acting both *pro se* and as attorney for Michael and Nathan. While it is nearly impossible to follow the reasoning or logic of the Respondent's Complaint, or to understand with any clarity the purpose of naming his children as co-plaintiffs, the most likely reason seem to be wrongful interference by the various defendants with Plaintiffs' "parent-child relationship".

12. The Court finds that the Respondent filed an action in violation of a court order. Further, by naming his children as co-plaintiffs, by suing as their counsel when one of the children was not in his legal custody, the Respondent has made false statements to a tribunal concerning the legal status of his “client” child. In so doing, and while purporting to be acting as their “attorney”, the Respondent has subjected two other individuals, one of whom was a minor, to potential sanctions and/or counter-claims.

UPON CONSIDERATION WHEREOF, the Three-Judge Court found by clear and convincing evidence that the Respondent has violated the following provisions of the revised Virginia Code of Professional Responsibility and Rules of Professional Conduct:

DR 1-102. Misconduct.

- (A) A lawyer shall not:
- (1) Violate a Disciplinary Rule or knowingly aid another to do so.
 - (3) Commit a crime or other deliberately wrongful act that reflects adversely on the lawyer’s fitness to practice law.
 - (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation which reflects adversely on a lawyer’s fitness to practice law.

DR 7-102. Representing a Client Within the Bounds of the Law.

- (A) In his representation of a client, a lawyer shall not:
- (5) Knowingly make a false statement of law or fact.
 - (8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

RULE 3.3 Candor Toward The Tribunal

- (a) A lawyer shall not knowingly:
- (1) make a false statement of fact or law to a tribunal[.]

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation.

THEREAFTER, the Virginia State Bar and the Respondent presented argument regarding the sanction to be imposed upon the Respondent for the misconduct.

AFTER DUE CONSIDERATION of the evidence and the nature of the ethical misconduct committed by the Respondent, the Three-Judge Court reached the unanimous decision that Respondent's license to practice law in the Commonwealth of Virginia should be suspended for a period of five (5) years, effective August 25, 2004. In electing to suspend, rather than to revoke the Respondent's license to practice law in the Commonwealth of Virginia, the Three-Judge Court gave due consideration to the absence of any prior record of disciplinary matters.

AT THE CONCLUSION of the proceedings on the 25th day of August, 2004, the Three-Judge Court entered a Summary Order suspending the Respondent's license to practice law in the Commonwealth of Virginia, effective that date, and directing him to comply with the notice requirements contained in Part Six, Section IV, Paragraph 13.M. of the Rules of the Supreme Court of Virginia; accordingly, it is, therefore

ORDERED that the license of Respondent, Michael Henry Ditton, to practice law in the Commonwealth of Virginia be, and the same hereby is, SUSPENDED for a period

of five (5) years, effective August 25, 2004; and it is further

ORDERED, that pursuant to the provisions of Part Six, Section IV, Paragraph 13.M. of the Rules of the Supreme Court of Virginia, the Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of his license to practice law in the Commonwealth of Virginia to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. The Respondent shall give such notice within fourteen (14) days of the effective date of the Summary Order, and make such arrangements as are required herein within forty-five (45) days of the effective date of the Summary Order. The Respondent shall furnish proof to the bar within sixty (60) days of the effective date of the Summary Order that such notices have been timely given and such arrangements for the disposition of matters made. Issues concerning the adequacy of the notice and arrangements required herein shall be determined by the Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with the requirements of this paragraph; and it is further

ORDERED that pursuant to Part Six Sec. IV, Paragraph 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent. And it is further

ORDERED that four (4) copies of this Order be certified by the Clerk of the Circuit Court of the City of Alexandria, Virginia, and be thereafter mailed by said Clerk to the Clerk of the Disciplinary System of the Virginia State Bar at 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800, for further service upon the Respondent and

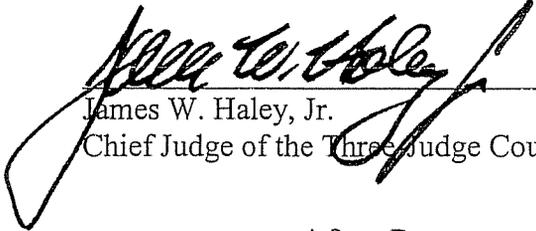
Bar Counsel consistent with the rules and procedures governing the Virginia State Bar
Disciplinary System.

THIS ORDER IS EFFECTIVE *NUNC PRO TUNC* AUGUST 25, 2004.

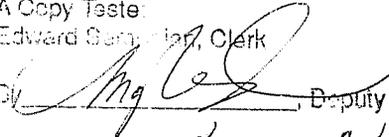
ENTERED this 4th day of October, 2004.

FOR THE THREE-JUDGE COURT

By:


James W. Haley, Jr.
Chief Judge of the Three Judge Court

A Copy Teste:
Edward Sampson, Clerk

By  Deputy Clerk

Certified this 7th day of Oct 2004

CERTIFICATION OF OFFICIAL RECORD

Case No. CH04001160
Va. Code §8.01-389 & 8.01-391;
U.S. Const. Art IV, Sec. 1,
28 U.S.C. § 1738

Commonwealth of Virginia, City of Alexandria Circuit Court

Clerk's Attestation

I, the Clerk of this Court, attest that the annexed

The Attached Order Dated 10/04/2004 in The Case Virginia State Bar vs.

DESCRIPTION OF ORIGINAL RECORD OR COPY

Michael Henry Ditton (CH04001160)

is an official record of this Court in my custody.

is a true, correct and complete copy of an official record of this Court in my custody and I am the custodian of that record. The annexed copy has been examined and compared with the original.

Given under my hand and the seal of this Court on

10/07/2004

DATE
(Seal)


EDWARD SEMONIAN, CLERK

, Clerk

Judge's Certification

I, a Judge of this Court, certify that the above attestation of the duly qualified Clerk of this Court, is in proper form, and that the signature thereto is genuine.

10/07/2004

DATE


JOHN E. KLOCH, JUDGE

, Judge

Clerks of Virginia Courts: When an original record or copy of a record is transmitted to another Va. court, only the clerk's attestation is required. When either an original record or copy is transmitted to a court outside Virginia, both the clerk's attestation and the judge's certification are required.

Clerks of Other Courts: The above attestation, the affixing of the Court's seal, and the certificate meet the requirements of 28 U.S.C. § 1738, entitling the record so attested and certified to full faith and credit.