

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF BONAR MAYO ROBERTSON, ESQUIRE
VSB DOCKET NUMBER 06-000-1650

OPINION ORDER

This matter came before the Virginia State Bar Disciplinary Board on December 8, 2005 upon an Agreed Disposition to impose reciprocal discipline, as a result of a Rule to Show Cause and Order of Suspension and Hearing entered on November 21, 2005. A duly convened panel of the Virginia State Bar Disciplinary Board consisting of Werner H. Quasebarth, lay member, Carl A. Eason, Esquire, William Hanes Monroe, Jr., Esquire, Rhysa Griffith South, Esquire, and Robert L. Freed, Esquire, Chair, heard the matter. Noel D. Sengel, Senior Assistant Bar Counsel, appeared as Counsel to the Virginia State Bar ("VSB"). The Respondent Bonar Mayo Robertson, Esquire appeared *pro se*. Donna Chandler, Chandler and Halasz, Inc., Court Reporters, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, was the reporter for the hearing.

Having considered the Agreed Disposition to impose reciprocal discipline, the Board finds by clear and convincing evidence as follows:

STIPULATIONS OF FACTS

1. At all times relevant hereto, the Respondent, Bonar Mayo Robertson, Esquire (hereinafter Respondent) has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent was suspended from the practice of law in the state of Maryland for a period of ninety (90) days, effective May 1, 2005, by a consent order entered by the Court of

Appeals of Maryland based upon the facts outlined in paragraphs three through six below.

3. The Respondent represented Karen Woodbury in a personal injury case. The Respondent settled the case and then kept settlement funds in his trust account for more than four months without informing Ms. Woodbury or her medical providers that he had their funds.

4. The Respondent had told Ms. Woodbury that he would attempt to negotiate reductions in her medical bills, but made minimal effort to do so.

5. Soon after depositing the settlement check and before making any other disbursements, the Respondent withdrew his own fee, which caused the balance in his trust account to fall below the amount needed to pay the liens of Ms. Woodbury's medical providers.

6. In a case that the Respondent handled for Mavis LaBule, he made little effort to settle Ms. LaBule's case, failed to file suit on her behalf for a period of a year, and then failed to terminate the representation properly.

STIPULATIONS OF MISCONDUCT

The aforementioned conduct on the part of the Respondent constitutes a violation of the following Rules of Professional Conduct:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's

decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

- (b) A lawyer may limit the objectives of the representation if the client consents after consultation.
- (c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.
- (d) A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.
- (e) When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.
- (b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.
- (c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

RULE 1.4 Communication

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

RULE 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

- (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
 - (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.
- (b) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.
- (c) A lawyer shall:
- (1) promptly notify a client of the receipt of the client's funds, securities, or other properties;
 - (2) identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable;
 - (3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them; and
 - (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.

RULE 1.16 Declining Or Terminating Representation

- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (d) state or imply an ability to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

Upon consideration of the Agreed Disposition to impose reciprocal discipline before this panel of the Disciplinary Board, it is hereby ORDERED that, pursuant to Part 6, § IV, ¶ 13(I)(7) of the *Rules of Virginia Supreme Court*, the license of Respondent, Bonar Mayo Robertson, Esquire, to practice law in the Commonwealth of Virginia shall be, and is hereby, suspended for a period of ninety (90) days, commencing November 21, 2005.

IT IS FURTHER ORDERED that, as directed in the Board's Order of November 21, 2005 in this matter, a copy of which was served on the Respondent by certified mail, the Respondent must comply with the requirements of Part 6, § IV, ¶ 13(M) of the *Rules of Virginia Supreme Court*. The time for compliance with said requirements runs from November 21, 2005, the effective date of the Rule to Show Cause and Order of Suspension. 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 client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar

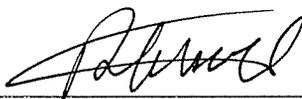
within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is FURTHER ORDERED that the Clerk of the Disciplinary System shall send an attested and true copy of this opinion order by certified mail, return receipt requested, to Respondent, Bonar Mayo Robertson, Esquire at his address of record, 1 Ivy Leaf Court, Boyds, MD 20841, and at 9308 Annapolis Rd., Lanham, MD 20706, and by regular mail to Noel D. Sengel, Senior Assistant Bar Counsel, 100 North Pitt St., Suite 310, Alexandria, VA 22314.

The Clerk of the Disciplinary System shall assess costs pursuant to Part 6, § IV, ¶ 13(B)(8) of the *Rules of Virginia Supreme Court*.

SO ORDERED, this 14 day of DECEMBER, 2005.



By: Robert L. Freed, Chair