

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF MATTHEW FRANCIS BELLINGER  
VSB Docket No. 10-033-083827

MEMORANDUM ORDER

This matter came to be heard on October 12, 2012 before a duly convened panel of the the Virginia State Bar Disciplinary Board consisting of Martha JP McQuade, chair, presiding; Paul M. Black; Sandra L. Havrilak; Melissa W. Robinson; and Anderson W. Douthat, IV, lay member (the "Board" or the "Panel"), by telephone conference for consideration of an Agreed Disposition between the parties. The Bar was represented by Bar counsel Edward L. Davis. The Respondent, Matthew Francis Bellinger, was *pro se*. Valerie L.S. Schmidt, Chandler & Halasz, Court Reporters, P.O. Box 9349, Richmond, Virginia 23227, was the court reporter for the hearing and transcribed the proceedings.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent presented to the Board a written proposed Agreed Disposition with respect to this matter.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or could reasonably be perceived to affect his or her ability to be impartial in this case. Each member, including the Chair, verified they had no such interests or conflicts.

The Panel heard argument from counsel and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Panel accepted the Agreed Disposition, as modified during the hearing, by unanimous decision.

The Agreed Disposition contained the following:

I. STIPULATIONS OF FACT

The Disciplinary Board finds the following facts by clear and convincing evidence:

1. On October 16, 2008, Matthew Francis Bellinger (Mr. Bellinger) was admitted to the practice of law in the Commonwealth of Virginia.
2. In February 2007, Mr. Bellinger, then 43, met a 23-year-old woman (the woman) who had been addicted to narcotics and, in Mr. Bellinger's words, living on the streets of Richmond for about 6 years.
3. According to Mr. Bellinger, the woman's mother asked him for help in getting her daughter "off of the streets."
4. Mr. Bellinger related further that he started meeting with the woman about once a month while he was in law school to ensure that she had food, basic necessities, clothes, and a place to stay. Mr. Bellinger explained that when he realized that she was using his money for illicit drugs, he gave her gift cards instead. When he learned that she found a way to exchange the gift cards for illicit drugs, he switched to personally paying for her basic needs as he could.
5. Mr. Bellinger said that as the frequency of his visits with the woman increased, so did his spending on her.
6. Mr. Bellinger acknowledged that the two of them became romantically and sexually involved, and that when she was eventually arrested for possession of cocaine in July 2008, he had become obsessed with her and with helping her to become sober. He said that this obsession affected his judgment.
7. Mr. Bellinger paid for the woman's criminal defense counsel on the cocaine charge referenced above and for her admission to a rehabilitation program. Before completing the rehabilitation program, however, she was removed for noncompliance.
8. Mr. Bellinger said that he had little contact with the woman between July 2008 and March 2009 because of an argument about her continued drug usage following her sentence to probation in July 2008 on the cocaine charge referenced above.
9. By January 2009, however, his infidelity and spending on the woman were enough to cause his wife to separate from him, and he moved to an apartment. (Mr. Bellinger says that he has reconciled with his spouse since then and that he is in the process of moving

back home.) Mr. Bellinger further admits that he and his wife reconciled in February 2011 and renewed their wedding vows in March 2012.

10. In March 2009, needing a place to stay, the woman stayed at Mr. Bellinger's apartment for about five nights.
11. On April 2, 2009, Mr. Bellinger drove the woman to what turned out to be her supplier's apartment to pick up the rest of her things while Mr. Bellinger waited outside. While inside she called Mr. Bellinger to ask for a telephone number that was on his cell phone. Mr. Bellinger responded, went inside briefly, and then drove the woman back to his apartment. Mr. Bellinger would say that while inside the house he observed no drugs or drug use and that the woman was sober.
12. Unbeknownst to the two of them, however, about 15 minutes after they left the supplier's residence, someone murdered him.
13. Mr. Bellinger drove the woman to his apartment where he fell asleep. While he was asleep the woman took his car and cash without his permission and drove back to the supplier's house to purchase drugs. There, she was stopped by police and arrested for possession of heroin.
14. For several weeks the police impounded Mr. Bellinger's car. Mr. Bellinger consented to a search which revealed crack pipes, baggies and several "work kits" (used needles) associated with the use of narcotics. Mr. Bellinger explained that the materials were not his and that the woman did not use narcotics in his presence.
15. The FBI and Richmond Police investigated the murder as well as the conduct of Mr. Bellinger and the woman. Neither was implicated in the murder, although Bellinger was a suspected aider or abettor of the woman's purchase of narcotics. The FBI also suspected him of willfully failing to disclose the woman's whereabouts when he knew that the FBI was trying to locate her as a material witness to unrelated narcotics charges.
16. In January 2010 the law firm where Mr. Bellinger worked knew the details of the investigation and continued to employ him with conditions and increased supervision, but dismissed him when the subject ethics complaint was filed in May 2010.
17. The woman was incarcerated at the Richmond City Jail on two occasions – in April 2009 following her arrest for possession of heroin, and again from August to September 2009 on a probation violation.
18. On eleven occasions Mr. Bellinger gained access to the Richmond City Jail for the sole purpose of having personal visits with the woman. On each occasion, however, he used his Virginia State Bar membership card and wore a suit to gain access to the jail as an

attorney. He acknowledged that he let jail officials think he was there for attorney visits when he was not in fact her attorney.

19. At the jail, Mr. Bellinger provided her with contraband (candy and sugar) and kissed her on one or two occasions contrary to jail policy. The Richmond City Sheriff investigated and barred Mr. Bellinger from the jail because of his conduct.
20. Mr. Bellinger denied being present when the woman was using illicit drugs and denied providing her with funds to purchase them. A Richmond police report, however, states that he admitted otherwise. Mr. Bellinger, however, denies that he admitted to the Richmond police that he provided the woman with funds to purchase drugs; he admits that he denied several times that the woman smoked drugs in his presence when he was in the house identified in paragraphs 11 and 13 and that when the detective continued to more and more forcefully state that she did smoke drugs in front of him, he stopped responding and remained silent. He further admits that he was trying to cooperate in a murder investigation, that he wanted to continue to deny that the woman smoked drugs in his presence, but that he did not want the interview to become confrontational because he needed to stay on good terms with the detective so as to possibly avoid involvement with the grand jury investigation mentioned in the interview.
21. During a telephone conversation between Mr. Bellinger and the woman recorded from the jail, Mr. Bellinger told the woman that the FBI could easily accuse him of lying because the phone numbers on his cell phone would show that he was in contact with her when he had told the FBI that he was not. He said this in response to the woman telling him that when she was in the FBI's car, she had seen the numbers that she dialed from his phone. (Reference: recording, entry 90828141119, also summarized on page 3 of VSB Investigator Lisa Marshall's report.
22. Mr. Bellinger explained, however, that he lied to the woman during this conversation, that he had provided the numbers to the police and that he did not want her to know that he had done so.
23. FBI Special Agent B. Scott Umphlet, however, expressed frustration that Mr. Bellinger initially did not give him a correct address for the drug dealer with whom the woman was living, but that when the FBI located the apartment to arrest the woman, Mr. Bellinger was present. Mr. Bellinger admits that the initial address he gave the FBI on or about August 11, 2009, was incorrect, that Richmond Police Detective Errol Fernandez called him when he and Special Agent Umphlett were looking for the errant apartment number, and that Mr. Bellinger offered to leave work to show them the correct apartment but his offer was declined. Mr. Bellinger further admits that on the evening of on or about August 11, 2009, he went to the apartment to determine the exact address to correct his mistake and that he called Detective Fernandez back on or about August 12, 2009, and that he gave him the correct address. Mr. Bellinger denies that the man living in the

apartment with the woman was a drug dealer; except admits, without direct evidence, that this was and is still his belief. Mr. Bellinger denies that the FBI located the apartment; except admits that a Chesterfield County police officer located the apartment to arrest the woman on a probation violation and that the police officer called Agent Umphlett. Mr. Bellinger denies that he was present when the FBI arrived at the apartment to arrest the woman on August 25, 2009; except admits that he arrived at the apartment after the FBI had arrived, that he knocked on the door and announced himself, and that he observed the FBI arrest the woman. Mr. Bellinger denies that the woman was arrested on a material witness warrant; except admits that the woman was arrested for a parole violation.

24. Mr. Bellinger admits that he went to the apartment to determine the exact address on or about August 11, 2009, to cooperate fully with the FBI and correct his initial error. He denies that he had a confrontation with a drug dealer on August 25, 2009, at the time the FBI arrived to arrest the woman; except admits that he had a confrontation with the man living with the woman on or about July 11, 2009, after he found out the woman had been removed from the rehabilitation program for noncompliance, and after he found out where the woman was likely residing. Mr. Bellinger admits that he went to the apartment on August 25, 2009, the date of the arrest, that he arrived at the apartment after the FBI, that his purpose was to locate the woman for the FBI, and that he was doing this to get the FBI off his back because Agent Umphlett had called him repeatedly during the 2 proceeding weeks and had threatened his job.

#### MITIGATING FACTORS

1. Mr. Bellinger has never been in trouble with the Virginia State Bar before (short career notwithstanding) and to the bar's knowledge has never been in any legal trouble in any jurisdiction.
2. Mr. Bellinger states that he was diagnosed with several anxiety disorders in 2009, including obsessive compulsive disorder, which he believes was a substantial cause of his obsession with the woman and a contributing factor to his lack of judgment. Mr. Bellinger states further that he is now taking prescription medications and he is responding well to treatment.
3. Mr. Bellinger fully cooperated with the Virginia State Bar's investigation, to include meeting with the Bar's investigator two times and providing the audio recordings of his phone conversations with the woman without having been asked to do so.
4. Mr. Bellinger offered to give permission for the Richmond Police to search his car after it was impounded. This offer was initially declined but was later accepted and he gave such permission.

5. Mr. Bellinger states that on his own volition, he has performed no legal work for over 2 years (except in his own defense) since he was dismissed from the law firm in May 2010 as he awaits the outcome of these proceedings.

## II. NATURE OF MISCONDUCT

By his behavior as set forth above, by becoming personally obsessed and sexually involved with a young woman whom he knew to be addicted to narcotics and who used his money and gifts to purchase illegal narcotics, by driving her to the residence of what turned out to be a narcotics supplier despite his interest in rehabilitating her, and at a time when he knew or should have known that she was using illegal narcotics as evidenced by the paraphernalia that the police found in his vehicle, by using the imprimatur of his Virginia State Bar membership to gain access to the Richmond City Jail as an attorney on multiple occasions when he was not the woman's attorney and when sole purpose of his visits was personal in nature, by delivering contraband to the woman and kissing her at the jail in contravention of jail policies, all resulting in his being barred from the jail, the Respondent was in violation of the following Rules of Professional Conduct:

### **RULE 8.4    Misconduct**

It is professional misconduct for a lawyer to:

- (b)    commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;

### **RULE 8.4    Misconduct**

It is professional misconduct for a lawyer to:

- (c)    engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

## III. IMPOSITION OF SANCTION

Having considered all the evidence before it and having determined to accept the Agreed Disposition as modified, the Disciplinary Board **ORDERS** that the Respondent's license to

practice law in the Commonwealth of Virginia be **SUSPENDED** for a period of One (1) Year effective the date of the Board accepted the Agreed Disposition, which was October 12, 2012.

It is further **ORDERED** that the Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 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 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 the 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 13-29 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 costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a certified copy of this order to Matthew Francis Bellinger at his last address of record with the Virginia State Bar.

ENTERED: November 30, 2012

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Martha JP McQuade  
Martha JP McQuade, Chair