

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
DAVID PETER BUEHLER**

VSJ Docket No.: 15-033-101485

AMENDED MEMORANDUM ORDER - MISCONDUCT

This matter came to be heard on April 22, 2016, before a panel of the Virginia State Bar Disciplinary Board (the "Board") comprised of Robert W. Carter (Lay Member), Tony H. Pham, Melissa Robinson, Tyler E. Williams, and Esther J. Windmueller, Jr., Second Vice Chair (presiding).

The Virginia State Bar ("the Bar") was represented by Edward Davis, Bar Counsel ("Bar Counsel"). David Peter Buehler (the "Respondent") failed to appear in person or by counsel. Jennifer L. Hairfield, Registered Professional Reporter of Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804-730-1222), having been duly sworn, reported the hearing.

The Chair opened the hearing by calling the case in the hearing room and causing the Assistant Clerk to call Respondent's name three times in the adjacent hall. In addition, the Chair had the Assistant Clerk call Respondent's name at the Virginia General Assembly, where the hearing was to be originally conducted. At neither location did the Respondent answer or appear. The Chair inquired of the members of the panel whether any of them had a personal or financial interest, or any bias, which would preclude, or could be perceived to preclude, their hearing the matter fairly and impartially. Each member of the panel answered the inquiry in the negative.

The matter came before the Board on certification from the Third District Section III Subcommittee Determination. All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (Clerk) in the manner prescribed by the Rules of the Supreme

Court of Virginia, Part Six, Section IV, Paragraph 13-20 of the Rules of Court. In the misconduct phase the Bar's exhibits 1-6 were admitted without objection. Further evidence was admitted by proffer of Bar Counsel.

The Petition charged a violation of the following provisions of the Rules of Professional Conduct:

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 1.15 Safekeeping Property

(b) Specific Duties. A lawyer shall:

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

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 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6;

FINDINGS OF FACTS

The Board makes the following findings of fact on the basis of clear and convincing evidence:

1. At all times relevant hereto, Respondent David Peter Buehler has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about July 11, 2013, Hunter Aliff retained Respondent for the defense of a lawsuit filed and served against him and other defendants, Benjamin Fuller and David Krivonal v. Hunter Aliff et. al., in the U.S. District Court, E.D. Virginia. Prior to retaining Respondent, Aliff had filed a pro se answer to the complaint.
3. Aliff paid Respondent an advance payment of fees of \$2,500 to conduct preliminary work which Respondent advised would be “to seek to have you dismissed from this lawsuit.”
4. Respondent neither contacted opposing counsel nor made an appearance in the lawsuit. As a result, Aliff continued to directly receive pleadings and notices from opposing counsel and the Court.
5. Respondent moved to Louisiana without first advising Aliff of his move and the closing of his Virginia practice.
6. At no time has Respondent accounted to Aliff for the \$2,500.00 paid to him other than to state that the fee had been “used up.”
7. At no time has Respondent provided Aliff with any work product from his representation of Aliff.
8. Upon his abandonment of the representation, Respondent failed to protect the interests of Aliff including but not limited to his failure to give notice to Aliff and failure to advise him of the case status.

9. In the ensuing bar investigation of Aliff's complaint against Respondent, the bar has repeatedly made demand upon Respondent for information regarding the representation of Aliff. This has included the initial 21 day letter forwarding the complaint and repeated demands by the bar's investigator. Notwithstanding said demands, Respondent has failed altogether to respond to the bar.

MISCONDUCT

After due deliberation, the Board did not find by clear and convincing evidence a violation by the Respondent David Peter Buehler of Rule 1.15(b)(3). The Board found by clear and convincing evidence violations by the Respondent of the provisions of the following Rules of Professional Conduct, as charged by the Bar:

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

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).

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- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6;

SANCTION

Thereafter, the Board received evidence of aggravation and mitigation from the Bar, including the Respondent's prior disciplinary record. After due deliberation, the Board announced the appropriate sanction as **REVOCATION**.

Accordingly, by this Memorandum Order it is **ORDERED** that the license of the Respondent DAVID PETER BUEHLER is **REVOKED** effective April 22, 2016.

It is further **ORDERED** that 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 Revocation 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 Revocation, and make such arrangements as are required herein within 45 days of the effective date of the Revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the Revocation 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 August 28, 2015, 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.

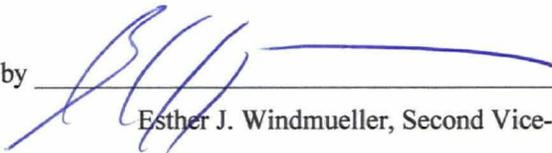
It is further **ORDERED** that, pursuant to Part 6, Section IV, Paragraph 13- 9(E) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall send an attested copy of this Order, by certified mail, return receipt requested to Respondent at his last address of record with the Virginia State Bar, that being David Peter Buehler, 4310 Constance St., New Orleans, LA 70115, and a copy by hand-delivery to Edward Davis, Bar Counsel, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

ENTERED this 14th day of April, 2016.

VIRGINIA STATE BAR DISCIPLINARY BOARD

by



Esther J. Windmueller, Second Vice-Chair