

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
RICHARD NEAL BUTT**

VSB DOCKET NO. 05-021-1771

ORDER OF SUSPENSION

This matter came to be heard on November 15, 2006, upon an Agreed Disposition between the Virginia State Bar and the Respondent, Richard Neal Butt.

A duly convened panel of the Virginia State Bar Disciplinary Board consisting of Robert E. Eicher, Esquire, Joseph R. Lassiter, Esquire, Russell W. Updike, Esquire, Werner Quasebarth (Lay Member), and Peter A. Dingman, Esquire, Chair, considered the matter by telephone conference. The Respondent, Richard Neal Butt, participated in the telephone conference *pro se*. Edward L. Davis, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar.

Upon due deliberation, it is the unanimous decision of the board to accept the Agreed Disposition. The Stipulations of Fact, Disciplinary Rule Violations, and Disposition agreed to by the Virginia State Bar and the Respondent are incorporated herein as follows:

I. FINDINGS OF FACT

1. During all times relevant hereto, the Respondent, Richard Neal Butt, was an attorney licensed to practice law in the Commonwealth of Virginia.
2. From 1999 to September 2004, Mr. Butt worked as an associate at a large Virginia Beach, Virginia law firm.
3. During 2003 and 2004, Mr. Butt represented American Express in a corporate credit card collection matter filed in the Fairfax County Circuit Court. The defendants were the individual card user and his employer.

4. The card user defended the case on the basis that he never agreed to be responsible to pay the charge card account.
5. Mr. Butt replied to a Request for Admissions, admitting that American Express had no proof that the defendant card user was obligated to pay the charge card account.
6. Mr. Butt failed to comply with other discovery matters, and the defendant filed a motion to compel.
7. On June 26, 2003, Mr. Butt endorsed a consent decree for the case to be dismissed with prejudice, for American Express to pay \$800 in attorney's fees, and for American Express to take all steps necessary to remove the defendant's negative credit history.
8. Mr. Butt endorsed the decree, and forwarded it to opposing counsel asking them to submit it to the court for entry. Mr. Butt paid the \$800 with his own funds.
9. Thereafter, Mr. Butt contacted American Express and its collector, Nationwide Credit, about removing the negative credit history. He followed his contact with Nationwide by e-mail on August 22, 2003.
10. Mr. Butt never received a reply from Nationwide, and did not follow-up. The negative credit history stood.
11. On four occasions between August 4, 2003, and November 11, 2003, the defendant's attorney advised Mr. Butt that the negative credit history remained, and demanded proof of his compliance with the consent order. Receiving no satisfactory answer, on November 14, 2003, defendant moved for a rule to show-cause.
12. The court issued the rule, and by order entered January 23, 2004, ordered American Express to pay daily sanctions per day until the negative credit history was removed, and to pay attorneys fees and other sanctions.
13. Mr. Butt endorsed the order "Seen and Agreed" on behalf of his client, American Express, although he did not seek his client's consent to do so, and did not have the authority to. Mr. Butt never informed his client about the sanctions order, and paid the sanctions with his own funds.
14. On January 22, 2004, Mr. Butt sent another e-mail to Nationwide asking for the removal of the negative credit history, with no results. This is the last known attempt by Mr. Butt to remove the negative credit history, and the sanctions continued to accumulate.
15. Having informed neither his client nor his employer about the mounting sanctions, Mr. Butt paid the sanctions directly to the defendant from personal or family funds.
16. Mr. Butt was unable to maintain the sanctions payments, and on August 5, 2004, the defendant filed for a partial monetary judgment.

17. Mr. Butt's law firm did not learn about this series of events until it received a copy of the motion for partial monetary judgment from American Express in August 2004. American Express had received it from the defendant's attorney.

18. Having finally learned about the mounting sanctions, American Express arranged the removal of the negative credit history, which was accomplished on August 13, 2004.

19. Mr. Butt neither informed nor sought help from anyone at his law firm about this dilemma out of concern that he might lose his employment. Members of the law firm would say that they conducted their own investigation, terminated Mr. Butt one month later, and notified the Virginia State Bar by letter of complaint, dated November 2, 2004.

21. Mr. Butt acknowledged to the Virginia State Bar investigator that he received the bar complaint letter, but did not respond to it, saying that the letter of complaint was accurate and that he had nothing to add to it.

22. Members of the law firm where Mr. Butt worked would say that they paid the remaining sanctions, and settled the matter with the concurrence of American Express.

23. They would say further that as a result of paying the sanctions, the law firm's shareholders suffered a reduction in compensation.

II. DISCIPLINARY RULE VIOLATIONS

The parties agree that the foregoing facts give rise to violations 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 1.3 Diligence

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

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.

- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- (c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

- (e) Make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party.

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; or

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

III. DISPOSITION

In accordance with the Agreed Disposition, it is hereby **ORDERED** that the license of the Respondent, Richard Neal Butt, to practice law in the Commonwealth of Virginia be, and the same hereby is, **SUSPENDED** for a period of six (6) months, effective November 15, 2006, the date that the Board accepted this Agreed Disposition.

It is further **ORDERED**, pursuant to the provisions of Part Six, Section IV, Paragraph 13.M of the Rules of the Supreme Court of Virginia, that 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 14 days of the effective date of the order, and make such arrangements as are required herein within 45 days of this effective date of the order. The Respondent shall furnish proof to the Bar within 60 days of the effective date of the 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 the arrangement required herein shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with these requirements.

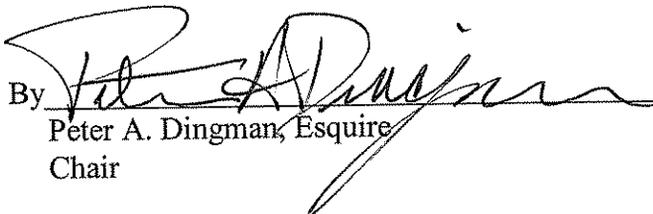
It is further **ORDERED** that a certified copy of this order shall be served by the Clerk of the Disciplinary System upon the Respondent, Richard Neal Butt, by certified mail, return receipt requested, at 4128 Faber Road, Portsmouth, Virginia 23703, his address of record with the Virginia State Bar, and by hand to Edward L. Davis, Assistant Bar Counsel, at the Virginia State Bar, Eighth and Main Building, Suite 1500, 707 East Main Street, Richmond, Virginia 23219.

The court reporter who transcribed these proceedings is Donna Chandler, of Chandler & Halasz, Registered Professional Reporters, Post Office Box 9349, Richmond, Virginia 23227. (804) 730-1222.

Pursuant to Part 6, Sec. IV, Para. 13.B.8(c) of the Rules, the Clerk of the Disciplinary System shall assess costs.

ENTERED THIS 17th DAY OF NOVEMBER 2006

THE VIRGINIA STATE BAR DISCIPLINARY BOARD

By 
Peter A. Dingman, Esquire
Chair