

**VIRGINIA:  
BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
MICHAEL CHRISTOPHER FASANO**

**VSB DOCKET NO.: 10-053-084339**

**ORDER OF SUSPENSION**

THIS MATTER came to be heard on April 26, 2013, before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Pleasant S. Brodnax, III First Vice Chair, presiding; Casey Forrester, Melissa W. Robinson; Esther J. Windmueller and Robert W. Carter, Lay Member (collectively, the "Board"). The Virginia State Bar ("Bar") was represented by Prescott L. Prince, Assistant Bar Counsel. The Respondent, Michael Christopher Fasano, was present and was represented by Victor M. Glasberg, Victor M. Glasberg & Associates, 121 South Columbus Street, Alexandria, Virginia 22314-3003. The Chair polled the members of the Board as to whether any of them had any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, and each member responded that there were no such conflicts. Jennifer L. Hairfield, a registered professional court reporter, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, after duly being sworn, reported the hearing and transcribed the proceedings.

This matter came before the Board on the Subcommittee determination for Certification by a Subcommittee of the Fifth District Committee, Section II, of the Bar.

**I. Findings of Fact**

Bar exhibits 1 through 4, Composite Exhibit A and B, as well as Respondent's Composite Exhibit 1 were admitted without objection. The Respondent and the Bar stipulated that the following allegations of misconduct contained within the Certification are true:

1. At all times relevant to the conduct set forth herein, Michael Christopher Fasano (“Respondent”) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent signed an employment agreement with Olmstead & Olmstead, P.C., a law firm, on February 6, 2008. Pursuant to the agreement, the Respondent was employed as an associate attorney whose compensation as such was to be a percentage of income tethered to the dollar ranges of gross monthly income he generated for the firm.
3. Timothy and Sevada Olmstead (“Complainants”) discovered in April of 2010 that beginning as early as November of 2009, the Respondent was taking fees from and representing some clients in legal matters without tendering any portion of those fees to the law firm, and was concealing from the Complainants and others at the law firm the identities of, and the legal services performed for, such clients. In at least one instance, the Respondent proposed to a prospective client that she pay him cash for services “under the table,” thus attempting to have her collude with him in depriving his employer of funds to which it is entitled.
4. The Respondent’s fees charged clients undisclosed to the law firm were always paid in cash, and his practice of concealing client information from the firm and accepting cash payments for fees which he did not share with the firm extended between November of 2009 and the date upon which he was fired by the firm, July 15, 2010.
5. During the investigation conducted by the Virginia State Bar into this matter, the Respondent admitted that he accepted funds from clients, as set forth below, outside of his employment relationship with the law firm. The names of the clients are not fully set forth so as to protect their privacy:

Co***e M***h	\$1,000.00
Go***h	500.00
H***ck	500.00
M***n	500.00
O***w	500.00
Sl***h	250.00
Sw***y	500.00
Tch***y	50.00
Ve***l	500.00
Br***r	500.00

6. Through court-maintained records, and the cooperation of the Complainants, the Virginia State Bar learned the identities of other clients represented by the Respondent during his tenure at the law firm, but not known to the firm. When questioned, the Respondent maintained that he represented certain of these individuals at no charge, that certain clients in question were not “under the table”

clients, or that he did not recall the particulars of the other representations in question.

7. The Respondent's methods of concealing his representations and fees charged and not shared with the law firm include, but are not necessarily limited to, false office calendar entries, meetings with clients at locations other than the law firm, meetings at the law firm on weekends when no other firm members were present, and lying about the Respondents actual whereabouts on one or more occasions.

The Board accepted the Parties' Stipulation of these facts.

## **II. Nature of Misconduct and Stipulation by Respondent**

The Certification charged violations of the following provisions of the Rules of Professional Conduct:

### **RULE 1.2 Scope of Representation**

(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.

### **RULE 4.1 Truthfulness In Statements To Others**

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of fact or law

### **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 honest, 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.

The parties stipulated to these rules violations, which stipulation was accepted by the Board.

### **III. Disposition**

After review of the foregoing findings of fact, the exhibits, the parties' stipulations as to the relevant facts in the Certification and as to the Rules violations, the Board determined that, in VSB Docket Number 10-053-084339, the Bar proved by clear and convincing evidence that the Respondent violated Rules 1.2(c), Rule 4.1(a) and Rule 8.4(a), (b) & (c).

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and the Respondent, including Respondent's prior disciplinary record and a joint recommendation for disposition proposed by counsel for both parties. The Board thereupon recessed to determine what sanctions to impose upon its findings of misconduct by the Respondent. After due deliberation, the Board reconvened to announce its determination that a suspension of Respondent's license for a period of two (2) months was appropriate.

It is hereby ORDERED that the Respondent, Michael Christopher Fasano, is suspended from the practice of law for a period of 60 days effective May 1, 2013.

It is further ORDERED that the Respondent must comply with the requirements of Part 6, 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. Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client(s). Respondent shall give such notices within fourteen (14) days of the effective date of the suspension, and make such arrangements as are required herein within forty-five (45) days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within sixty (60) days of the effective date of the

suspension if 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 a 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 by certified mail to Michael Christopher Fasano at his last address of record with the Virginia State Bar at The Fasano Law Office, PC, 9244-B Mosby Street, Manassas, Virginia 20110 and shall send a copy by first class mail to his counsel, Victor M. Glasberg, Victor M. Glasberg & Associates, 121 South Columbus Street, Alexandria, Virginia 22314-3003; and shall hand-deliver a copy to Prescott L. Prince, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 9th day of May, 2013.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Pleasant S. Brodnax III  
Pleasant S. Brodnax, III, First Vice Chair