

**VIRGINIA**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF**

**CHERYL D FOOTMAN-BANKS**

**VS** **DOCKET NO 15-0220100028**

**AGREED DISPOSITION MEMORANDUM ORDER**

On September 22, 2015, this matter was heard by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by the Rules of the Supreme Court of Virginia. The panel consisted of Whitney G Saunders, Chair, Thomas O Bondurant, Jr, Pleasant O Brodnax, III, Tyler E Williams, III, Anderson Wade Douthat, IV, Lay Person. The Virginia State Bar was represented by Paul D Georgiadis, Assistant Bar Counsel. Cheryl D Footman-Banks was present and was represented by her counsel Leslie Haley. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter Jennifer L Hairfield, Chandler and Halasz, P O Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, the Certification, Respondent's Disciplinary Record and any responsive pleadings of counsel,

It is **ORDERED** that

The Board accepts the Agreed Disposition and the Respondent shall receive a 45 day suspension as set forth in the Agreed Disposition, which is attached to this Memorandum Order.

It is further **ORDERED** that

The sanction is effective October 13, 2015.

It is further **ORDERED** that

The Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail of the Revocation or Suspension of her license to practice law in the Commonwealth of Virginia, to all clients for whom she 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 her care in conformity with the wishes of her client. Respondent shall give such notice within 14 days of the effective date of the Revocation or Suspension, and make such arrangements as are required herein within 45 days of the effective date of the Revocation or Suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the Revocation or Suspension that such notices have been timely given and such arrangements made for the disposition of matters.

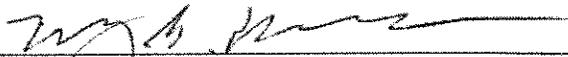
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of the Suspension, she shall submit an affidavit to that effect within 60 days of the effective date of the Revocation or Suspension to the Clerk of the Disciplinary System at the Virginia State Bar. 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, which may impose a sanction of additional Suspension for failure to comply with the requirements of this subparagraph.

The Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9 E. of the Rules.

A copy teste of this Order shall be mailed by Certified Mail, return receipt requested to Cheryl D. Footman-Banks, at her last address of record Cheryl D. Footman-Banks, Esquire, Janaf Office Building, 5900 E Virginia Beach Blvd, Ste 208, Norfolk, VA 23502; by regular mail to Respondent's Counsel Leslie Ann Takacs Haley, Esquire, Haley Law PLC, PO Box 943, Midlothian, VA 23113, and hand-delivered to Paul D. Georgiadis, Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

ENTERED THIS 23<sup>rd</sup> DAY OF September, 2015

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
\_\_\_\_\_  
Whitney G. Saunders, Chair

**VIRGINIA:**

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

**IN THE MATTER OF  
CHERYL D. FOOTMAN-BANKS  
VSB Docket No. 15-022-100028**

**AGREED DISPOSITION  
(45 Day Suspension)**

Pursuant to the Rules of the Virginia Supreme Court Rules of Court Part 6, Section IV, Paragraph 13-6.H., the Virginia State Bar, by Paul D. Georgiadis, Assistant Bar Counsel and Cheryl D. Footman-Banks, Respondent *pro se* hereby enter into the following Agreed Disposition arising out of the referenced matter.

**I. STIPULATIONS OF FACT**

1. At all times relevant hereto, Respondent Cheryl D. Footman-Banks has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about February 17, 2014, Sabrina Troutman retained Respondent with a credit card payment to Respondent of \$1,000.00 toward an agreed upon fee of \$3,500.00 for post-trial representation of her son Cashus Daise. Daise had been convicted by judgment entered in the Norfolk Circuit Court on January 24, 2014.
3. Having received the \$1,000.00 advance payment of fees prior to beginning any work on the matter, Respondent nonetheless failed to deposit said fees into her attorney trust account.
4. Caise's trial counsel, the Norfolk Public Defender, continued to represent Daise in his appeal, having filed a Notice of Appeal on February 14, 2014.
5. According to Respondent's "Retainer Fee Agreement", Respondent agreed to
  - a. Request a bond hearing;
  - b. "Reviewing of transcript and all other services and consultations involved in filing appeal;
  - c. File appeal to Court of Appeals requesting oral argument"; and

- d. Jail visits.
6. On February 19, 2014, Respondent began her work on the representation.
  7. After conducting some review and research, and having consulted with client Daise's counsel of record at the Public Defender's office, Respondent determined that she would not handle the appeal and therefore did not move to substitute in as appeals counsel.
  8. However, Respondent failed to advise client Daise that she was not pursuing the appeal and failed to advise him that she was terminating the representation.
  9. Respondent contends and would testify that she did communicate in writing and via telephone to Sabrina Troutman—the client's mother, the results of her analysis of the appeal prospects and her decision to terminate the representation, but is unable to offer documentary proof thereof due to a hard drive failure on her computer.
  10. Complainant Troutman would testify to the contrary, that at no time prior to her filing this complaint did Respondent communicate in any form or fashion that Respondent was not handling the appeal of her son's conviction.
  11. Notwithstanding Respondent's agreement to do so, Respondent failed to move for a bond hearing.
  12. Notwithstanding Respondent's agreement to do so, Respondent failed to visit client Daise at the Norfolk City Jail on even a single occasion.
  13. Following the filing of this complaint, Respondent issued a \$1,000.00 refund check dated July 20, 2014 to Troutman from her attorney trust account.
  14. On July 20, 2014, Respondent's attorney trust account had a balance of only \$38.20.
  15. On July 30, 2014, Respondent deposited \$1,000.00 into her trust account resulting in a balance of \$1,038.20.
  16. In the course of the bar's investigation of this matter, the bar asked Respondent whether she had deposited the initial advanced payment of \$1,000.00 into her attorney trust account. On two separate occasions Respondent affirmatively stated that she had deposited the \$1,000.00 into her attorney trust account when in fact she had not done so.

## II. NATURE OF MISCONDUCT

Such conduct by the Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### RULE 1.3 DILIGENCE

(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.

### 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) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(b) Specific Duties. A lawyer shall:

(5) not disburse funds or use property of a client or third party without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

### 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:

- (a) knowingly make a false statement of material fact;
- (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter;
- ...
- (d) obstruct a lawful investigation by an admissions or disciplinary authority.

RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

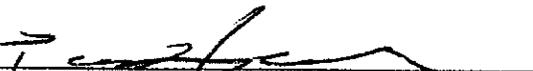
- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and the Respondent *pro se* tender to the Disciplinary Board for its approval the agreed disposition of a 45 day suspension of her license to practice law in the Commonwealth of Virginia as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee.

THE VIRGINIA STATE BAR

By:   
Paul D. Georgiadis, Assistant Bar Counsel

*Cheryl D. Footman-Banks*

Cheryl D. Footman-Banks, Respondent