

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTERS OF
REUBEN VOLL GREENE

VSB Docket Nos. 09-033-076046
 09-033-078166
 10-033-081354
 10-033-080223

MEMORANDUM ORDER

These matters came on to be heard on January 13, 2011, by the Disciplinary Board of the Virginia State Bar (the Board) by telephone conference upon an Agreed Disposition between the parties, which was presented to a panel of the Board consisting of Jody D. Katz (Lay Member) Michael S. Mulkey, Raighne C. Delaney, Randall G. Johnson, Jr., and Paul M. Black, Chair Designate, presiding (the Panel).

Edward L. Davis, Bar Counsel, appeared for the Virginia State Bar, and the Respondent, Reuben Voll Greene, did not participate in the telephone conference but appeared through his counsel, Arnold R. Henderson.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented the same to the Panel.

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 reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, a majority of the Panel accepted the Agreed Disposition.

I. FINDINGS OF FACT

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

1. During all times relevant hereto the Respondent, Reuben Voll Greene, was an attorney licensed to practice law in the Commonwealth of Virginia.

VSB Docket No. 09-033-076046
Complainant: Virginia State Bar

2. On July 17, 2007, a Henrico County Circuit Court jury convicted Ronald Blaydes Harris of five counts of embezzlement and sentenced him to three years in prison. On November 14, 2007, the court entered the judgment and sentence. Another attorney represented Mr. Harris at trial, and Mr. Harris filed a notice of appeal.
3. Court records indicate that on April 8, 2008, the Court of Appeals received the record from the trial court and notified Mr. Harris by letter.
4. During April 2008, Mr. Harris hired Mr. Greene to pursue the appeal and paid a portion of his fee on April 24, 2008, according to Mr. Greene's Payment History record.
5. In accordance with Rule 5A:12(a) of the Rules of Court, the petition for appeal was due 40 days from the date the Court of Appeals received the record, or by May 18, 2008.
6. On May 16, 2008, Mr. Greene notified the Court of Appeals of his representation by letter, and filed a motion to extend the deadline for filing the petition for appeal and appendix by 60 days. In support of his motion, Mr. Greene stated:

(3) Counsel has recently been retained and accordingly has not had proper opportunity to review the rather considerable transcript of this matter which, counsel understands, includes five motion hearings, one sentencing hearing and a two-day jury trial. (4) Accordingly, Counsel requires additional time to adequately complete his review of the record and to research and prepare appellant's petition.

7. By Order, entered May 19, 2008, the Court of Appeals granted an extension to June 17, 2008 to file the petition for appeal, and noted that the Court was not authorized to grant

more than a 30-day extension of time to file the petition for appeal from the original due date. Rule 5A:12(a), Rules of Court.

8. On June 16, 2008, the day before the extended filing deadline, Mr. Greene filed a Second Motion for Extension of Time to File Petition for Appeal and Appendix, stating:

Petitioner now requests a further extension of time to file his petition and appendix because Counsel has moved to withdraw as Petitioner is unable to complete the retainer agreement with Counsel...Accordingly, Petitioner requires additional time to either retain new counsel or have court-appointed counsel prepare and file his petition.

9. Simultaneous with the second motion for an extension, Mr. Greene filed a Motion to Withdraw and Appoint Court-appointed Counsel, stating that his client was unable to complete arrangements to retain him, and:

Additionally, Counsel, after more carefully reviewing his caseload, has determined he is unable to properly continue the representation. The undersigned Counsel is unfortunately, for these reasons, also unable to accept court-appointment in this matter at this time.

10. By Order, entered June 17, 2008, the Court of Appeals denied the motion for an additional extension, noting again that it was not authorized to grant more than a thirty-day extension to file the petition for appeal in accordance with Rule 5A:12(a). The Court also denied Mr. Greene's motion to withdraw by separate Order entered the same date.
11. Mr. Greene mailed the petition for appeal to the Court of Appeals by regular mail on June 17, 2008, the date that it was due.
12. Rule 5A:3(c) of the Rules of Court provides that such documents shall be deemed timely filed if mailed postage prepaid to the Clerk of the Court of Appeals by registered or certified mail.
13. The Court of Appeals did not receive the petition for appeal by the due date and dismissed the appeal accordingly on June 27, 2008.
14. During the ensuing bar investigation, Mr. Greene explained that he called the Clerk of the Court for instructions and asked specific questions, but that no one told him to mail the petition by certified mail.
15. Upon learning of the dismissal, the client contacted the Court of Appeals which informed him about the delayed appeal process. The client informed Mr. Greene, who prepared an appropriate affidavit and succeeded in having the case reinstated to the docket through

the delayed appeal process. Mr. Greene did not request oral argument in accordance with Rule 5A:12(c) and the petition for appeal was denied by a single appellate judge on February 20, 2009 without argument. Mr. Greene requested review by a three-judge panel which also denied the petition without argument on April 9, 2009.

16. During the initial investigation of the complaint, Mr. Greene told the bar that for the appeal he charged the client between \$3,000 and \$5,000 which he believed he placed in his trust account. In response to a subpoena for his trust account records relating to this case, however, Mr. Greene furnished some receipts, cancelled checks and deposit slips for his operating account, but nothing further.
17. During the subsequent investigation Mr. Greene explained that his fee for the appeal was \$5,000, of which the client paid only \$4,200.
18. Upon further investigation, the bar ascertained that Mr. Greene had placed none of the client's fees into his attorney trust account, stating that he had already earned the fees upon receipt (including the first payment of \$750 credited on April 24, 2008). The first entry in his criminal file diary, however, was not until May 16, 2008, when he drafted and filed his motion to extend the filing deadline for the petition for appeal.
19. Mr. Greene's Payment History record for the appeal reflects \$2,000 paid on April 24, 2008, lined through and changed to reflect \$750 received on that date with a notation appearing to state that "250" was for a "trial case" and "Remainder to Appeal."
20. Mr. Greene's deposit slip for April 24, 2008, however, reflects \$3,645 deposited to his operating account on that date. Mr. Greene explained that Mr. Harris gave him \$3,645 and told him that \$750 was to be applied to the appeal and the remaining money, \$2,895, was to be applied to the separate court case in which Mr. Greene was representing him.
21. Mr. Harris, however, would say that he recalls paying \$2,000 down (as initially reflected in the Payment History) and the rest in installments, for a total of \$3,000, the amount he understood to be the total fee. Mr. Greene denies this.
22. The investigation also revealed that Mr. Greene did not maintain the required attorney trust account records or perform the required reconciliations. He said that he kept track of the amounts of money paid by his clients in the file jackets for his cases, but otherwise had no client subsidiary ledgers to track the receipt or disbursement of their fees, no cash receipts and disbursement journals, and no proof of periodic reconciliations, because he wasn't doing any.
23. During his interview with the Virginia State Bar on May 19, 2010, Mr. Greene said that he hired an outside accountant two weeks earlier to do his quarterly reconciliations and that he was going to ask him to do the monthly reconciliations as well.

II. NATURE OF MISCONDUCT (VSB complaint)

The Disciplinary Board finds that such conduct by Reuben Voll Greene constitutes misconduct in violation 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 1.15 Safekeeping Property

(a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or

(2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

RULE 1.15 Safekeeping Property (continued)

(e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must produce the records and information required by this Rule.

(1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:

(i) a cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;

(ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;

(iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;

(iv) reconciliations and supporting records required under this Rule;

(v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

RULE 1.15 Safekeeping Property (continued)

(f) Required Escrow Accounting Procedures. The following minimum escrow accounting procedures are applicable to all escrow accounts subject to Rule 1.15(a) and (c) by lawyers practicing in Virginia.

(2) Deposits. All receipts of escrow money shall be deposited intact and a retained duplicate deposit slip or other such record shall be sufficiently detailed to show the identity of each item;

(3) Deposit of mixed escrow and non-escrow funds other than fees and retainers. Mixed escrow and non-escrow funds shall be deposited intact to the escrow account. The non-escrow portion shall be withdrawn upon the clearing of the mixed fund deposit instrument;

(4) Periodic trial balance. A regular periodic trial balance of the subsidiary ledger shall be made at least quarter annually, within 30 days after the close of the period and shall show the escrow account balance of the client or other person at the end of each period.

- (i) The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of monies received in escrow for the period and deducting the total of escrow monies disbursed for the period; and
 - (ii) The trial balance shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.
- (5) Reconciliations.
- (i) A monthly reconciliation shall be made at month end of the cash balance derived from the cash receipts journal and cash disbursements journal total, the escrow account checkbook balance, and the escrow account bank statement balance;
 - (ii) A periodic reconciliation shall be made at least quarter annually, within 30 days after the close of the period, reconciling cash balances to the subsidiary ledger trial balance;
 - (ii) Reconciliations shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.
- (6) Receipts and disbursements explained. The purpose of all receipts and disbursements of escrow funds reported in the escrow journals and subsidiary ledgers shall be fully explained and supported by adequate records.

III. FINDINGS OF FACT (Continued)

VSB Docket No. 09-033-078166
Complainant: Corey C. Bowden, Sr.

- 24. On August 2, 2006, Corey C. Bowden was injured in a traffic accident when struck from the rear by another driver. He was treated for neck and back pain at the Medical College of Virginia (MCV) Hospital and released the same day. On September 8, 2006, he hired Mr. Greene. Mr. Bowden completed his treatment (outpatient physical therapy) on November 8, 2006.
- 25. The contingent fee agreement, executed on September 8, 2006, provides for the client to pay fees of \$195 for any subsequent consultation with Mr. Greene and \$60 for any additional consultation with his staff in addition to the 33 1/3 percent contingent fee.
- 26. Mr. Greene notified Progressive Insurance, the liability carrier, of his representation by letter, dated October 4, 2006. Progressive Insurance (John Hall, Claims Specialist) acknowledged his representation by letter, dated October 10, 2006. By letter, dated October 27, 2006, Mr. Greene asked Mr. Bowden to inform him if he were to see any other doctors and invited him to contact his office with any questions.

27. Mr. Bowen would say that thereafter, he could not reach Mr. Greene until May 2007 when Mr. Greene told him that he was awaiting the medical bills from MCV. Mr. Bowden alleged further lapses in communication until March 2008 when he had a face-to-face meeting with Mr. Greene who said that he was still working the case. On an unknown date in the summer of 2008, Mr. Bowden scheduled another meeting with Mr. Greene who did not appear. Mr. Bowden says that he waited outside of Greene's office in the sweltering heat until he reached Greene on his cell phone. Greene says he was tied up in court while Bowden says that Greene told him that he got his times mixed up. Mr. Greene denies this.
28. Mr. Bowden retrieved his file from Mr. Greene and engaged successor counsel.
29. Claims specialist John Hall asked Mr. Greene to furnish pertinent information by letters, dated October 10, 2006, December 6, 2006, April 2, 2007, and December 4, 2007. Mr. Greene did not respond or send anything to the claims specialist except for a brief response to the December 4, 2007 questionnaire in which he said that he was still waiting on medical bills from the MCV Hospital and physicians.
30. Mr. Greene's file indicates that on February 17, 2007, he requested medical records and billing information from Dr. Brian Henry, the outpatient physician. The file also indicates that Mr. Greene received the radiologist's bill in November 2006.
31. Claims specialist John Hall confirmed that he made written requests to Mr. Greene for information on October 10, 2006, December 6, 2006, April 2, 2007 and December 4, 2007, but that Mr. Greene responded only to the December 4, 2007 request.
32. Mr. Hall's December 4, 2007 letter asked, "*Is your client still treating? If yes, with whom? If not, status of demand package? Total specials to date?*" In response, Mr. Greene did not address whether his client was still treating, but stated, "*Still waiting on medicals/bills from MCV Hospital and MCV Physicians.*"
33. Mr. Greene's file, however, reflects that he did not request the medical information from MCV until the following month, on January 3, 2008, more that 13 months after Mr. Bowden had completed all of his treatment.
34. Seven days later, on January 10, 2008, MCV provided Mr. Greene with the needed records by facsimile.
35. Mr. Hall said that Mr. Greene sent a demand package on April 21, 2008, but did not include the records from MCV, so he could not act on it.

36. By letter, dated April 21, 2008, Mr. Hall acknowledged receipt of the demand package but stated that the medical records from MCV were not included and asked Mr. Greene to forward them. Mr. Greene did not respond, and Mr. Hall repeated his request by letters, dated May 20, 2008 and June 18, 2008.
37. On June 25, 2008, Mr. Greene sent the needed billing records by facsimile, and Mr. Hall evaluated the demand package on July 3, 2008. Mr. Hall would say that he called Mr. Greene to discuss the demand but that Mr. Greene never called him back. At the time, it was less than one month before the statute of limitations would run.
38. Mr. Hall said that the next time he heard from Mr. Greene was by his letter of July 17, 2008, asserting an attorney's lien and indicating that another attorney was handling the case. By letter, dated July 22, 2008, successor counsel confirmed the representation. Unfortunately, successor counsel allowed the statute of limitations to run in August 2008 without accepting Mr. Hall's settlement offers.
39. Mr. Bowden would say that during the months preceding his discharge of Mr. Greene, he repeatedly contacted Mr. Greene to express concern about the looming statute of limitations with no demand having been made or suit having been filed by Mr. Greene, but to no avail.
40. In his written evaluation of the case, Mr. Hall stated that liability was clear. Mr. Bowden, however, never received any compensation for his injuries.

IV. NATURE OF MISCONDUCT (Bowden Complaint)

The Disciplinary Board finds that such conduct by Reuben Voll Greene constitutes misconduct in violation 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.

RULE 1.5 Fees

- (a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:
 - (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
 - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (3) the fee customarily charged in the locality for similar legal services;
 - (4) the amount involved and the results obtained;
 - (5) the time limitations imposed by the client or by the circumstances;
 - (6) the nature and length of the professional relationship with the client;
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
 - (8) whether the fee is fixed or contingent.

IV. FINDINGS OF FACT (continued)

VSB Docket No. 10-033-080223
(Judge Steverson Complaint)

- 41. On January 15, 2009, Ronald Lee Reed received a summons for driving while his drivers license was suspended, second offense. Trial was scheduled for March 5, 2009 in the Henrico County General District Court.
- 42. Prior to the March 5, 2009 trial date, Mr. Reed hired Mr. Greene to represent him on the charge. Unavailable to appear on that date, Mr. Greene provided his client with a letter to present to the court, dated March 3, 2009, (1) noting that Mr. Greene had been retained by Mr. Reed, (2) asking for a continuance, and (3) providing available dates for trial.

43. On March 5, 2009, Mr. Reed appeared in court and presented the letter to the Honorable Linwood Neil Steverson, Judge, who honored the request and continued the case to May 12, 2009, one of the dates provided by Mr. Greene in the letter.
44. On May 12, 2009, the court called the case for trial. The client, Mr. Reed, was present as were the Commonwealth and its witness, but Mr. Greene was nowhere to be found. The court continued the case to July 7, 2009.
45. Judge Steverson caused a summons to be issued for Mr. Greene to appear on July 7, 2009, to show cause why he should not be held in contempt for failure to appear on May 12, 2009. (Case Number GT09000553-01). Mr. Greene was personally served and appeared on July 7, 2009 at which time he explained to the court that he did not appear on March 5, 2009, because his client did not give him the new date.
46. The court responded that it was Mr. Greene's responsibility to appear in court and that he could not shift this duty to his client. The court advised him further that it would no longer accept representation letters from his clients because it had no confidence that he would appear on the set dates.
47. Judge Steverson found Mr. Greene in contempt of court for failing to appear, sentenced him to ten days in jail, and reported the matter to the Virginia State Bar.
48. Mr. Greene responded to the bar complaint by letter, dated July 30, 2009, stating that he instructed his client to call him with the date because the courts do not call the attorneys to do so. He said that he learned later that his client forgot to call. He also explained that he did not intend to shift any duty to his client (as the court had admonished him) but that it was his responsibility. He said that as a safeguard against this he instructed his secretary to include in new client files the printout from the online court records systems.
49. Mr. Greene also said that the Henrico County General District Court does not post court information on line, so the information was not included in this file. He said that his secretary was supposed to call the clerk for the date, but that "No call was made." He said that it was his responsibility, and that he has instructed his secretary to call the courts directly to obtain new dates.
50. Judge Steverson, however, responded by letter, dated August 3, 2009, stating that the Henrico County General District Court has posted its information on line for the past twelve years.
51. Mr. Greene appealed the contempt conviction to the Circuit Court which dismissed it on the basis that the matter was not serious.

52. The bar's investigation revealed six other prior occasions when the Henrico County Courts sought legal action against Mr. Greene for failures to appear.

Cases Originating in the Henrico General District Court

February 3, 2005

53. In case number GT04050343-01, the Honorable Archer Yeatts, Judge, Henrico County General District Court, issued a rule against Mr. Greene to show cause why he should not be held in contempt under Virginia Code Section 18.2-456 for failing to appear in court in the matter of *Commonwealth v. Sidney Carter* on February 3, 2005. On April 6, 2005, Mr. Greene appeared and Judge Steverson dismissed the show cause after issuing a warning to Mr. Greene.

October 13, 2005

54. In case number GT04-050343-03, Mr. Greene was held in summary contempt for failing to appear once again in the same *Sidney Carter* matter, this time on the rescheduled trial date of October 13, 2005. The court issued a show-cause summons for him to appear on December 2, 2005.

December 2, 2005

55. Although he was personally served with the summons, Mr. Greene nonetheless failed to appear at the December 2, 2005 hearing as well.
56. Mr. Greene having failed to appear yet again, the court issued a *capias* for his arrest (Case Number GT04050343-04). Mr. Greene was arrested and appeared before the Henrico County General District Court on December 12, 2005 which found him guilty of contempt, in violation of 18.2-456, and failure to appear, in violation of 19.2-128. The Court sentenced him to four days in jail.
57. In taking these actions, the Honorable John Marshall noted the above-referenced facts and the fact that Mr. Greene had previously arrived about two hours late for a bond hearing in his court that Mr. Greene had arranged while family members of his client were sitting in the courtroom were taken into consideration.
58. Mr. Greene appealed these decisions to the circuit court where the Honorable Lee A. Harris dismissed case number CR05006532-00 (failure to appear under 19.2-135) but found Mr. Greene guilty in case number CR05006533-00 (*capias*/failure to appear under 19.2-128) and imposed a fine of \$100.

December 29, 2005

59. On January 5, 2006, the Henrico County General District Court issued a capias for the arrest of Mr. Greene for failing to appear on December 29, 2005 "to represent def William H. Fisher after being retained to do so." Court records reflect that Mr. Greene was arrested on February 8, 2006 and released on his own recognizance. The court heard the matter (Case no. GT05046841-01) on March 8, 2006, found Mr. Greene guilty and sentenced him to ten days in jail and a \$200 fine.
60. Mr. Greene appealed the matter to the Circuit Court (Case number CR060015500-00) where it was heard and dismissed by the Honorable Daniel Balfour on May 10, 2006.

Cases Originating in the Henrico County Circuit Court

June 7, 2007

61. Mr. Greene appeared before Judge Balfour again on July 24, 2007 in Case number CR07-2836-00M, on a rule to show cause for contempt of court, in violation of 18.2-456. The rule states that Mr. Greene failed to appear in court on time in the matter of *Commonwealth v. Leonard Jackson* on June 7, 2007. Court records indicate that Mr. Greene was arrested on July 3, 2007, and released after posting bond. The court heard and dismissed the matter on July 24, 2007.

May 28, 2008

62. Finally, Case number CR08-2236-00M was a rule to show cause issued May 28, 2008 for failure to appear on May 28, 2008, as counsel in the matter of *Commonwealth v. Willie Anthony Greene*, in violation of 19.2-128. The court records indicate that it was heard by Judge Harris on June 25, 2008, who found Mr. Greene guilty, sentenced him to ten days in jail (suspended), fined him \$250, ordered him to perform 100 hours of community service and required him to take a class on scheduling. Mr. Green returned to the court on November 13, 2008 to show that he had met these conditions, and the court suspended his sentence.
63. In bar disciplinary matters, acquittal in a criminal proceeding does not bar a disciplinary proceeding arising out of the same set of facts. *Smolka v. Second District Committee of the Virginia State Bar*, 224 Va. 161, 295 S.E.2d 267 (1982). The fact that federal or state authorities decline to prosecute a criminal charge does not preclude a finding that the attorney violated a disciplinary rule prohibiting criminal or deliberately wrongful acts. *In the Matter of Sam Garrison*, VSB Docket Number 02-080-3027, Virginia State Bar Disciplinary Board, May 7, 2004). While the effect of a suspended sentence followed by dismissal of the original criminal charge can be argued, a conviction is not a prerequisite

to a finding that the attorney violated a disciplinary rule prohibiting criminal or deliberately wrongful acts. *In the Matter of Elliott M. Schlosser*, VSB Docket Number 01-010-1990 (Virginia State Bar Disciplinary Board March 17, 2004).

VI. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by Reuben Voll Greene constitutes misconduct in violation of the following Rules of Professional Conduct:

By willfully or negligently failing to appear in court as he was required to do, especially when his clients were present as required, and on one occasion after having been ordered by the Circuit Court to take a class on scheduling:

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.

(For failing to appear in court to the detriment of his client who had appeared)

RULE 1.3 Diligence

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

By repeatedly and habitually violating the Courts' requirements to appear, and in thereby causing disruption to one or more of the proceedings:

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

(g) Intentionally or habitually violate any established rule of procedure or of evidence, where such conduct is disruptive of the proceedings.

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 as a lawyer;

By repeatedly violating Virginia Code Section 19.2-128:

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;

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** the Suspension of the Respondent's license to practice law in the Commonwealth of Virginia for a period of sixty (60) days, with Terms, effective January 27, 2011, the date that these matters were scheduled to be heard by the Disciplinary Board. The terms with which the Respondent must comply are as follows:

1. Upon his return to the practice of law on March 27, 2011, the Respondent will ensure that he handles all client money as required by Rule 1.15 of the Rules of Professional Conduct, including but not limited to:
 - Maintaining subsidiary ledgers for all clients
 - Showing proof of periodic reconciliations and trial balances of his attorney trust account
 - Maintaining a cash receipts and cash disbursements journal for his attorney trust account
2. The Respondent will ensure that, within ninety (90) days after his return to practice on March 27, 2011, his certified public accountant furnishes a report to the Virginia State Bar setting forth the status of the Respondent's compliance with Term 1 of this disposition, and that his accountant furnishes three more reports at ninety (90) day intervals, the last report being due on March 30, 2012.

3. The Respondent will be in full compliance with Rule 1.15 when he returns to the practice of law in 2011 and his CPA will report on his compliance with this term. For a reference, the Respondent should consult with the handbook, *Lawyers and Other People's Money*, Appendix 3, available to him on the Virginia State Bar's web site at http://www.vsb.org/docs/Lawyers_OPM_electronic.pdf.

If, all the terms and conditions are not met by the deadlines imposed above, the Respondent agrees that the Disciplinary Board shall impose a **one-year suspension of his license to practice law** pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

With respect to VSB Docket Number 10-033-081354, the Virginia State Bar, with the concurrence of the Respondent's counsel, moved to withdraw and dismiss the case for lack of clear and convincing evidence. Upon due deliberation, a majority of the Panel chose to grant the motion. Accordingly, it is hereby ORDERED that VSB Docket Number 10-033-081354 is dismissed for lack of clear and convincing evidence.

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 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.

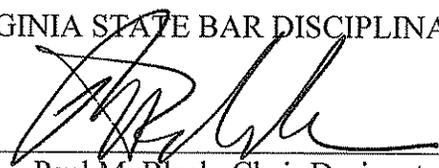
It is further ORDERED that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further ORDERED that the Clerk of the Disciplinary System shall send a certified copy of this order to Reuben Voll Greene at 1557 East Main Street, Richmond, Virginia 23219, his last address of record with the Virginia State Bar, and to his counsel, Arnold R. Henderson, at Suite 102, 116 East Franklin Street, Richmond, Virginia 23219, his last address of record, and hand delivered to Edward L. Davis, Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

Terry S. Griffith, Court Reporter, Chandler & Halasz, P.O. Box 9349, Richmond,
Virginia 23227, (804) 730-1222, was the court reporter for the hearing and transcribed the
proceedings.

ENTERED: 1/14/11

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: 
Paul M. Black, Chair Designate