

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

VIRGINIA STATE BAR *EX REL*
FIFTH DISTRICT – SECTION 1 COMMITTEE,

Complainant,

v.

Case No. 2007 13872
[VSB Docket No.: 06-051-1284]

ROBERT W. HAAS,

Respondent.

FINAL ORDER (PUBLIC REPRIMAND)

This matter came on the 10th day of March, 2008, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent. The Agreed Disposition was considered by a Three Judge Court, pursuant to § 54.1-3935 of the Code of Virginia, 1950, as amended, consisting of The Honorable Cleo E. Powell, Chief Judge designate, The Honorable John J. McGrath, Jr., Judge, and The Honorable Stephen C. Mahan, Judge, considered the matter by telephone conference.

Kathleen M. Uston, Assistant Bar Counsel, represented the Bar. The Respondent, Robert W. Haas, Jr., was present, represented by counsel, David Ross Rosenfeld, and presented an endorsed Agreed Disposition.

Having considered the Agreed Disposition, it is the decision of the Three Judge Court that the Agreed Disposition be accepted, and the Three Judge Court finds by clear and convincing evidence as follows:

1. At all times relevant hereto, Robert W. Haas, (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia

2. On December 15, 2004, Chahdad C. Bolouri (“Chad”), client of Complainant Brien M. Roche, Esquire, and defendant in the matter of *Sahrapour v. Bolouri*, At Law No. 221236, in the Fairfax County (“Bolouri suit”) won a judgment of \$63,000.00 on defendant Chad’s counter-claim against plaintiff and Respondent’s client, Nayereh Sahrapour (“Ms. Sahrapour”).

3. On that same day, Respondent filed suit on behalf of George Beheshtian (“George”), husband of Ms. Sahrapour and owner of G.W. Beh, LLC, a restaurant in Great Falls, Virginia, against Chad and Ramin Bolouri (“Ramin”), Chad’s brother, alleging, *inter alia*, breach of fiduciary duty, breach of contract, conversion, actual fraud, conspiracy to commit fraud, and constructive fraud (*G.W. Beh, LLC v. Ramin Bolouri and Chahdad Bolouri*, Law No. 227738) (“Beh suit”); these claims were ultimately resolved in favor of Respondents clients who received from Mr. Roche’s clients the sum of approximately \$340,000 in settlement of various claims.

4. Respondent timely noticed Ms. Sahrapour’s appeal from the judgment and on February 16, 2005, timely filed a Motion with the trial court seeking leave to file a supersedeas appeal bond to insure that execution upon the aforementioned judgment was stayed pending appeal and the conclusion of other pending litigation. Thereafter, by letter dated March 14, 2005, Respondent informed defense counsel that the insurance company denied Ms. Sahrapour’s bond application and on June 2, 2005 Ms. Sahrapour’s appeal was terminated.

5. The Respondent’s client, Ms. Sahrapour, solely owned a piece of investment property in Loudoun County, Virginia. On January 11, 2005, the Respondent recorded a subordinate Deed

of Trust on this property, securing himself in the amount of \$25,000.00 for legal fees.¹ On January 18, 2005, Ms. Sahrapour signed a contract to sell that property for \$699,000.00. The transaction was originally scheduled to close on or about March 15, 2005, but was rescheduled for March 18, 2005.² Although the purchasers designated Respondent as settlement agent in the Sales Contract, Signature & Stewart Settlements, L.C. conducted the closing. Respondent directed that the sum of \$63,000.00 be withheld from the seller's (Ms. Sahrapour) proceeds and held in escrow in order to satisfy the judgment held against Ms. Sahrapour by Mr. Roche's client. The HUD-1 Settlement Statement prepared for the transaction confirms that this amount was withheld from Ms. Sahrapour's proceeds and placed in escrow with Respondent's title company.

6. On March 15, 2005, three (3) days before the above referenced closing, Mr. Roche convened Debtor Interrogatories in front of a duly appointed Commissioner in Chancery in an effort to enforce the judgment in *Sahrapour v. Bolouri*. Although Paul Miller, Respondent's co-counsel representing Ms. Sahrapour in the Bolouri suit, had been scheduled to attend the Debtor Interrogatories on behalf of Ms. Sahrapour, Respondent attended in his stead at the last minute.

7. During the Debtor Interrogatories, Ms. Sahrapour testified that, other than her home, she owned no other real property. She testified further that she had no documents responsive to Mr. Roche's document production request seeking "deeds, deeds of trust, mortgages, security instruments and notes of indebtedness on real estate, wherever situated." Mr. Roche then asked the Respondent if he himself had any documents responsive to this request and Respondent, responded "no sir."

¹ On February 28, 2005, the subordinate Deed of Trust was amended to increase Respondent's security to \$50,000.00.

8. On March 18, 2005, the closing of the sale of Ms. Sahrapour's Loudoun County property took place and \$63,000 of the sale proceeds was disbursed by the settlement agent to Respondent. Respondent's title agency escrow account records reflect \$63,000.00 on deposit subsequent to the closing and also reflect a further deposit of \$7,000.00 made on April 15, 2005. The HUD-1 also reflects payments to Respondent of \$30,000.00 to satisfy his subordinate Deed of Trust, and of \$125.00 for preparation of the Deed of Conveyance.

9. On March 22, 2005, the Respondent personally signed a Certificate of Satisfaction releasing his Deed of Trust from Ms. Sahrapour's Loudoun County investment property.

10. On March 23, 2005, Mr. Roche filed a Creditor's Bill of Complaint seeking a judicial sale of Ms. Sahrapour's home. On September 2, 2005, an Order was entered appointing a Commissioner to proceed with the sale of Ms. Sahrapour's home.

11. Approximately six (6) months after the closing on Ms. Sahrapour's investment property, Mr. Roche discovered that Ms. Sahrapour had sold her investment property and that Respondent had had a lien on that property for legal fees which was satisfied at the time of the March closing.

12. On September 13, 2005, Mr. Roche wrote to the Respondent addressing the sale of the Loudoun County property. In response, Respondent, by letter to Mr. Roche dated September 13, 2005, acknowledged Ms. Sahrapour's previous ownership of the Loudoun County property, the sale of that property, and the fact that a portion of the proceeds had been placed in escrow in anticipation of the appeal of the defense judgment in the Bolouri suit. Respondent included with this letter a check payable to Mr. Roche's client in the amount of \$70,000 "which

2 At the last minute, the closing was postponed to March 18, 2005.

was the amount determined for the Supercedes Bond.”

13. The parties stipulate that at all times Respondent had \$70,000 in his trust account for the purpose of paying the judgment obtained by Mr. Roche’s client against Respondent’s client.

14. Respondent acknowledges that the escrowed funds should have been turned over to the Court in order to stay execution of the judgment, or alternatively, after the appeal was terminated, paid over to Mr. Roche to satisfy his client’s judgment, and that he was negligent and remiss in not having done so. Respondent asserts that it was due to an “oversight” that he failed to pay the funds to Mr. Roche after the appeal was terminated.

The Three Judge Court finds by clear and convincing evidence that such conduct on the part of Robert W. Haas, Jr., constitutes a violation of the following provisions of Rules of Professional Conduct:

Rule 1.3 Diligence

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

(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 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(a) Obstruct another party's access to evidence or alter, destroy or conceal a document or other material having potential evidentiary value for the purpose of obstructing a party's access to evidence. A lawyer shall not counsel or assist another person to do any such act.

RULE 4.1 Truthfulness In Statements To Others

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

- (b) fail to disclose a fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client.

Rule 1.15 Safekeeping Property.

(c) A lawyer shall:

- (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.

Upon consideration whereof, it is ORDERED that the Respondent shall receive, effective March 10, 2008, a PUBLIC REPRIMAND.

IT IS FURTHER ORDERED that pursuant to Part Six, § IV, ¶ 13.B.8.c.1 of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess costs; and

IT IS FURTHER ORDERED that four (4) copies of this Order be certified by the Clerk of the Circuit Court for the County of Fairfax, and be thereafter mailed by said Clerk to the Clerk of the Disciplinary System of the Virginia State Bar at 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800 for further service upon the Respondent and Bar Counsel consistent with the rules and procedures governing the Virginia State Bar Disciplinary System.

O.K.
3/27/08

ENTERED THIS 10th day of March, 2008.

A COPY TESTE:
JOHN T. FREY, CLERK

BY: Risa Grayson
Deputy Clerk

Date: 3/26/08
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

Cleo E. Powell, Chief Judge
On behalf of the Three Judge Court