

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF OWAIIAN MAURICE JONES

VSB DOCKET NUMBERS:

07-060-0522	07-060-2324	08-060-073893
07-060-1778	07-060-2403	08-060-074730
07-060-1812	08-060-072756	08-060-072958
07-060-2039	08-060-073591	08-060-073476
07-060-2192	08-060-073732	08-060-073489
07-060-2232	08-060-073843	

ORDER OF SUSPENSION

THIS MATTER came on to be heard on June 25, 26 and 27, 2008, before a panel of the Disciplinary Board consisting of Robert E. Eicher, Chair, Peter A. Dingman, Martha JP McQuade, Russell W. Updike and Stephen A. Wannall, lay member. The Virginia State Bar was represented by Marian L. Beckett, Assistant Bar Counsel. The Respondent, Owaiian Maurice Jones, appeared in person and proceeded *pro se*.

The Chair polled the members of the panel as to whether they had any personal or financial interest which would impair, or reasonably could be perceived to impair, any of them from impartially hearing this matter and serving on the panel, to which inquiry each member and the Chair responded in the negative.

Donna T. Chandler, court reporter with Chandler & Halasz, P.O. Box 9349, Richmond, Virginia, 23227, (804) 730-1222, after being duly sworn, reported the hearing.

These matters came before the Board pursuant to a Petition for Expedited Hearing filed in accordance with the provisions of Part 6, § IV, ¶13.I.1.b of the Rules of the Supreme Court.

Respondent neither filed a formal answer to the petition nor did he file a demand that the proceedings before the Board be terminated and that further proceedings be conducted pursuant to Article 6 of Chapter 39 of Title 54.1 of the Code of Virginia.

The Board took judicial notice of the Bar's Notice of Hearing, dated May 30, 2008, the Board's Order, dated May 30, 2008, granting the petition for an expedited hearing, and the receipt for certified mailing to the Respondent at his address of record with the Virginia State Bar. They were admitted in evidence without objection as Board Exhibits 1, 2, and 3, respectively. The Respondent timely received a copy of the Bar's Verified Petition for Expedited Hearing.

The Respondent acknowledged that he was familiar with the allegations of misconduct and with the procedure for the hearing, and the Chair dispensed with an explanation.

The Virginia State Bar's exhibits, presented collectively as Exhibit A1-91, were admitted in evidence without objection. Respondent's exhibits 1-22 were admitted in evidence without objection. Testimony *ore tenus* was received from the Respondent, Nichole Mosher, Laurie Showers, Bar investigator Donald Lange, Joseph Orlando, John Morgan, Norma Vogt, Joan Wicker, David Rocke, Tammy Willoughby, Howard Thomas and Crystal White. Deposition testimony from Cassandra Stiles and Stephanie Spindle was read into the record. Bar Counsel and the Respondent presented argument.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Owaiian Maurice Jones (hereinafter Respondent or Jones) was an attorney licensed to practice law in the Commonwealth of Virginia.

2. Respondent received proper notice of these proceedings as required by the Rules of the Virginia Supreme Court.

THE JOSEPH ORLANDO MATTER
VS B DOCKET NO. 07-060-0522

3. In April, 2006, Joseph Orlando (hereinafter "Complainant") paid Respondent \$3,500.00 to represent him with respect to a claim of adverse possession.
4. From the inception of the representation to the middle of August, Complainant placed numerous calls to the Respondent to discuss the case. With rare exception, Complainant was required to leave a message for the Respondent who was either in court or otherwise unable to accept the call. The vast majority of calls to the Respondent were not returned.
5. After becoming increasingly frustrated about the difficulty he was having speaking with the Respondent, Complainant contacted the Virginia State Bar to express his concerns.
6. Complainant wrote Respondent by letter dated August 18, 2006, expressing concerns about Respondent's failure to communicate and lack of diligence.
7. After having been contacted by the Virginia State Bar with regard to Complainant's concerns, Respondent filed a Complaint in the Circuit Court for the County of Stafford on August 25, 2006, on behalf of Complainant and his wife to quiet and/or establish title to land by adverse possession.
8. On October 28, 2006, Complainant wrote Respondent a letter including a postscript which stated "we are again having communication problems, I've called your office three times and also your personal phone to no avail."

9. A hearing was scheduled on January 3, 2007, to resolve a demurrer filed on behalf of the defendant. The hearing was continued to February 20, 2007.
10. Complainant continued having difficulty communicating with the Respondent and ultimately, in or around April, 2007, discharged Respondent as his counsel. Complainant received a partial refund in the amount of \$1,049.83.
11. Complainant retained other counsel who promptly reached an agreement settling the adverse possession claim.

THE RICHARD HEFLIN MATTER
VSB DOCKET NO. 07-060-1778

12. In May, 2006, Richard Helm (hereinafter "Complainant") paid The Law Offices of Owaiian Jones \$1,500.00 to represent him with respect to a workers' compensation claim arising out of an accident which occurred on February 1, 2006. The claim was to be handled by Mr. Marcel Jones, an associate attorney employed by the Respondent.
13. Marcel Jones left Respondent's firm in September, 2006, and the Complainant's file remained with Respondent.
14. At the beginning of October, 2006, five months after the commencement of the representation, the Virginia Workers' Compensation Commission advised the Complainant that no claim had been filed on his behalf. Complainant subsequently completed a Claim for Benefits form and filed it with the Commission himself on November 14, 2006. An appropriate Award was entered by the Commission on January 18, 2007, and no significant harm was caused by the delayed filing.

15. On December 4, 2006, Complainant requested a full refund of the \$1,500.00 retainer paid, which request was honored by the Respondent on January 3, 2007.

THE LISA HETRICK MATTER
VS B DOCKET NO. 07-060-1812

16. In December, 2004, Lisa Hetrick (hereinafter "Complainant") paid Respondent \$3,500.00 to represent her with respect to a divorce.
17. In November, 2006, almost two years from the commencement of the representation, Complainant discharged Respondent, requested a refund and retained other counsel.
18. Respondent furnished Complainant a billing statement dated December 22, 2006, showing a total amount owed to the client of \$1,925.16. A subsequent billing statement dated August 20, 2007, reflected a total owed hi the client of \$1,925.16. Documentation of work performed supports a total fee of \$5,421.65, and expenses of \$3.51, resulting in a balance of \$1,925.16 owed by the client after deducting the \$3,500.00 advance payment.

THE JOAN WICKER MATTER
VS B DOCKET NO. 07-060-2039

19. In January, 2006, Joan Wicker (hereinafter "Complainant") paid Respondent \$3,500.00 to represent her with respect to a wrongful termination case.
20. Respondent filed a Complaint on behalf of Complainant against her former employer, Brooke Nursing Center, making certain charges of discrimination in accordance with the requirements of the Equal Employment Opportunity Commission.

21. A conference held on August 8, 2006, resulted in the execution of a Mediation Settlement Agreement whereby the Complainant would receive a total payment of \$1,000.00 in full settlement of her claim. \$500.00 was to be paid not later than August 14, 2006, and the balance of \$500.00 would be paid not later than October 14, 2006.
22. Respondent did not provide Complainant monthly billing statements throughout the course of representation.
23. In October 30, 2006, Complainant requested by telephone that she be provided a billing statement detailing the services provided.
24. Having received no response to the earlier telephonic request, Complainant sent a letter dated November 16, 2006, reiterating her request and asking for a refund of the unearned portion of the retainer.
25. As a result of the Respondent's failure to respond to the telephonic and written requests, Complainant contacted the office of the Staff Judge Advocate Legal Assistance Branch in Quantico, Virginia. Complainant's husband served in the United States Military.
26. On December 7, 2006, Captain A.B. Kays, Legal Assistance Attorney with the United States Marine Corps, wrote Respondent on behalf of Complainant reiterating the request for a billing statement and partial refund.
27. Respondent called Complainant on January 12, 2007, and they met to go over the billing statement Complainant had been requesting since the end of October. Adjustments were made to the billing statement to the Complainant's satisfaction.

28. On January 24, 2007, Respondent issued a partial refund of \$1,600.00 to Complainant, which check was picked up by Complainant's husband, Donald Wicker, that same day.
29. In response to cross examination questions from the Respondent, Complainant stated that she could not reach the Respondent by telephone. Either the telephone lines were not working, the voicemail was full or the receptionist would take a message and Complainant would not receive a return call. Complainant questioned at least one member of Respondent's staff if messages were being given to him and the staff stated affirmatively that the messages were being forwarded, but it was up to the Respondent to return the call or act upon a request. Complainant offered credible testimony supporting a finding that there were more than 5 unreturned phone calls.

THE STEPHANIE SPINDLE MATTER
VSB DOCKET NO. 07-060-2192

30. In October, 2005, Stephanie Spindle (hereinafter "Complainant") paid Respondent \$500.00 to represent her with respect to a separation agreement and no-fault divorce. The matter was to be handled by Mr. Marcel Jones, an associate attorney employed by the Respondent.
31. Marcel Jones left Respondent's firm in September, 2006, and the Complainant's file remained with Respondent.
32. On July 19, 2006, Complainant wrote Respondent advising him that she had left four or five voicemails and several e-mails with Marcel Jones but had not received a response. Complainant stated she "would like to know what is happening with my case and how soon I can expect a resolution."

33. On August 10, 2006, a Bill of Complaint was filed in the Circuit Court of the County of Essex seeking a divorce a *vinculo matrimonii*.
34. On August 18, 2006, Complainant wrote Respondent expressing her frustration with the delay and requesting a refund of her payment.
35. On December 28, 2006, Complainant wrote Respondent again regarding concerns she had with regard to how the case was being handled. Complainant also voiced concern about being unable to reach the Respondent to discuss her case. Finally, Complainant reiterated her request for a refund if Respondent could not get the divorce finalized before the end of January, 2007.
36. Very little, if any, work was performed on the case by the Respondent during 2007 until Respondent's office was notified by the court that there were deficiencies in the documents filed.
37. Donna Hinson, legal assistant to Judge Taliaferro, called Respondent's office on October 5, 2007, to discuss concerns raised about the documents. Hinson contacted Respondent's office again on November 30, 2007, stating the following things needed to be done:
 1. *Attach a copy of the complaint to the certificate of service form (which she faxed to Randi), wait ten days and then redo the depositions.*
 2. *The depositions should state that the parties lived separate and apart without cohabitation and interruption and that the defendant states he waives his signature to these depositions and authorizes a notary to sign for him.*
 3. *The Bill of Complaint states the Ms. Spindle resides in Pennsylvania. It also states she was domiciled in and a bonafide resident of the Commonwealth of Virginia for six months preceding commencement of the divorce suit but then the deposition states she moved to Pennsylvania in February 2006 and the complaint was filed in August 2006. This means she was not a resident for six months before she filed the complaint. The exact date of when Ms. Spindle moved needs to be clarified in the deposition.*

38. Supplemental depositions were taken in March, 2008, but the divorce proceedings have yet to be finalized.
39. Several calls made by the Complainant to Respondent subsequent to the supplemental depositions in March were not returned. As of June 12, 2008, approximately three months after the supplemental depositions, Complainant has been provided no information with regard to the status of the divorce proceedings.
40. Respondent conceded in closing argument that he was “too slow” handling the claim and asked that the Board consider a minimum sanction versus suspension or revocation.

THE HOWARD THOMAS MATTER
VSB DOCKET NO. 07-060-2232

41. In October, 2005, Howard Thomas (hereinafter “Complainant”) paid Respondent \$5,000.00 to represent him with respect to a wrongful termination case.
42. Following the filing of the lawsuit, opposing counsel filed a Motion for Summary Judgment alleging that the Complainant failed to state a cause of action in Virginia. The Defendant’s Motion for Summary Judgment was granted.
43. Complainant reviewed, understood and executed an employment agreement of the Respondent which stated that “the Attorney cannot guarantee the result of this case or any future litigation and has so informed the Client. The Client accepts employment of the Attorney without any promise or guarantee of results.”
44. Complainant’s calls to Respondent were returned, although it took Respondent a “long time” to do so.
45. Complainant received his billing statement upon request, although it came “after some time.”

THE TAMMY WILLOUGHBY MATTER
VSB DOCKET NO. 07-060-2324

46. In August, 2005, Tammy Willoughby (hereinafter "Complainant") paid Respondent \$3,500.00 to represent her with respect to a child custody case.
47. At the time of the onset of the representation, a two year protective order was in effect based upon alleged child abuse by the Complainant.
48. On May 19, 2006, a hearing was held in the Circuit Court of the County of Spotsylvania which affirmed the entry of a two year protective order. Complainant directed Respondent to appeal the decision.
49. Respondent endorsed the child protective order by stating "seen and objected as stated in open court."
50. Respondent made no arrangements for a court reporter to record the underlying proceedings of the May 19, 2006, hearing. In the absence of a transcript, Respondent resorted to preparing a statement of facts based largely on a summary of the testimony as recalled by the Complainant.
51. On December 12, 2006, the Virginia Court of Appeals issued a Memorandum Opinion summarily affirming the trial court on the basis that Respondent had failed to comply with Rule 5A: 18 and its requirement to make contemporaneous objections in the trial court to preserve an issue for appeal.
52. On January 19, 2007, an Agreed Custody and Visitation Order was entered in the Juvenile and Domestic Relations District Court of Spotsylvania County.
53. Complainant testified she had no knowledge of the Agreed Custody and Visitation Order and did not consent to its entry. Complainant's first knowledge of the Order was when a copy was received in the mail.

54. Complainant had extreme difficulty communicating with the Respondent. Approximately eight calls were placed to Respondent's office after Complainant learned of the Agreed Custody and Visitation Order and no calls were returned.

THE JOHN FORSMAN MATTER
VSB DOCKET NO. 07-060-2403

55. In July, 2004, John Forsman, Jr. (hereinafter "Complainant") paid Respondent \$7,500.00 to represent him with respect to certain felony charges in federal court.
56. After representation by the Respondent was concluded on August 17, 2005, the Respondent failed to remove earned fees from his trust account until December, 2005.
57. At the hearing, and as he had in response to questions from Virginia State Bar investigator, Donald Lange, Respondent conceded that his reconciliations were delinquent by approximately a year. Neither monthly nor quarterly reconciliations were being performed on a regular or timely basis.
58. Respondent's office manager/paralegal, Nicole Mosher, conceded that the reconciliations were not up to date and she is currently working on reconciliations for August, 2007. Mosher also concedes that no reconciliations were performed from October, 2006, to January, 2007.
59. Laurie Showers, a former employee of the Respondent, testified that the reconciliations were not up to date while she worked for Respondent for a period of 11 1/2 years, from April, 1995, through October, 2006. Showers described the reconciliations as being eight months or more behind.

THE JOHN MORGAN MATTER
VSB DOCKET NO. 08-060-072756

60. On May 15, 2006, John Morgan (hereinafter “Complainant”) paid Respondent \$275.00 for preparation of a will. In addition, Respondent received payment of \$3,500.00 to assist Complainant in obtaining a permit to carry firearms.
61. Respondent performed legal services regarding preparation of the will to the Complainant’s satisfaction.
62. Complainant filed his bar complaint against Respondent on October 30, 2007, approximately 17 months after Respondent received the \$3,500.00 payment for assistance in obtaining a permit to carry firearms.
63. Despite testimony from the Respondent that he had worked on the case “all along,” no credible evidence was offered to suggest that the matter has been handled diligently. Respondent attributed some delay to court availability and his trial calendar.
64. Respondent failed to comply with a subpoena *duces tecum* issued by the Bar on January 30, 2008.
65. Respondent refused to return calls from the Complainant. On one occasion when Complainant did speak to the Respondent, Respondent was unable to locate Complainant’s file and assured him he would call back, which he did not do.
66. Complainant requested a billing statement and has not received anything responsive to his request.
67. Despite Complainant’s request for a refund of any unearned fees, Respondent has refused to return any portion of the advanced fees.

THE WILLIAM WALKER MATTER
VSB DOCKET NO. 08-060-072958

68. The Complainant, William Walker, is an attorney practicing in Winston- Salem, North Carolina.
69. Respondent was counsel in the case of Carden v. U.S. Food Service, CL05-503 pending in Roanoke County, Virginia.
70. On March 16, 2007, Respondent participated by telephone in the deposition of Thomas E. Myers in connection with the Carden v. U.S. Food Service case.
71. Respondent requested a copy of the deposition transcription but maintains he has received only an invoice and no transcript. Accordingly, Respondent refused to make payment.
72. The court reporting agency, Atlantic Professional Resources, LTD, d/b/a Atlantic Professional Reporters, obtained a default judgment against Respondent on November 20, 2007, in the amount of \$115.70, together with interest at the judicial rate from October 4, 2007, and attorney fees in the amount of \$17.35, plus costs.

THE VERONICA ROMERO MATTER
VSB DOCKET NO. 08-060-073476

73. In October, 2005, Veronica Romero (hereinafter "Complainant") paid Respondent \$3,500.00 to represent her with respect to a divorce, child custody and support issues and a name change.
74. Complainant filed her bar complaint against Respondent on January 4, 2008, over two years after Respondent received the \$3,500.00 payment.

75. On January 25, 2008, the Bar mailed a copy of the complaint to Respondent, to which no response was filed.
76. On January 25, 2008, the Bar issued a subpoena *duces tecum* to Respondent who refused to produce any documents in response to the lawful demand.

THE JEFFREY LENNON MATTER
VSB DOCKET NO. 08-060-073489

77. In March, 2006, Jeffrey Lennon (hereinafter “Complainant”) paid Respondent \$975.00 to represent him with respect to his request for reinstatement of his Virginia drivers license.
78. Complainant filed his bar complaint against Respondent on January 7, 2008, almost two years after Respondent received the \$975.00 payment.
79. On January 24, 2008, the Bar mailed a copy of the complaint to Respondent, to which no response was filed.
80. On January 25, 2008, the Bar issued a subpoena *duces tecum* to Respondent who refused to produce any documents in response to the lawful demand.

THE NORMA VOGT MATTER
VSB DOCKET NO. 08-060-073591

81. In July, 2007, Norma Vogt (hereinafter “Complainant”) paid Respondent \$5,000.00 to represent her with respect to a claim against World Moving Services.
82. In August, 2007, Complainant, a retired paralegal, met with Respondent to review a draft Complaint. Concerns were expressed about the adequacy of the draft and it was agreed Respondent would revise the Complaint.

83. On August 24, 2007, Complainant sent a letter to Respondent terminating his services and demanding the return of her file, an accounting of the fee earned and a refund.
84. Subsequent to the August 24, 2007, letter, Respondent revised and filed the Complaint. Complainant requested proof of filing by letter dated September 25, 2007.
85. Respondent did not request service of process on the defendant at the time of filing or at any point thereafter.
86. On January 10, 2008, Complainant again requested the immediate return of her file and a refund.
87. On January 22, 2008, Complainant sent out a letter to Respondent stating “you are fired and your services are no longer needed. I am writing again to demand that you return my file immediately.”
88. Respondent has refused to refund any portion of the \$5,000.00 fee notwithstanding his concession that Complainant is entitled to a partial refund.
89. Respondent refused to return Complainant’s file until after the bar complaint was filed on January 10, 2008.
90. On January 29, 2008, the Bar mailed a copy of the Complaint to Respondent to which no response was filed until June 20, 2008.

THE VIOLET IRVIN MATTER
VSB DOCKET NO. 08-060-073732

91. In October, 2003, Violet Irvin (hereinafter “Complainant”) paid Respondent \$3,500.00 to represent her with respect to a breach of contract claim.

92. Respondent's associate, Chad Rinard, obtained a judgment on behalf of Violet Irvin and her co-plaintiff, Robert Walters, against Castle Homes of Virginia, Inc. on June 7, 2004, in the amount of \$25,100.00.
93. A Stipulation of Settlement Agreement was entered into in December, 2004, between plaintiffs, Robert Walters and Violet Irvin, and defendants, Wayne Bates and Henry Garrett, whereby defendants acknowledged their indebtedness to plaintiffs in the amount of \$11,500.00.
94. Neither Complainant nor her co-plaintiff, Robert Walters, has recovered any monies pursuant to the judgment or Stipulation of Settlement Agreement.
95. Complainant filed her bar complaint against Respondent on January 17, 2008, over four years after the Respondent received the \$3,500.00 payment.
96. On March 25, 2008, the Bar mailed a copy of the complaint to Respondent, to which no response was filed until June 20, 2008.

THE DAVID ROCKE MATTER
YSB DOCKET NO. 08-060-073843

97. In April, 2005, David Rocke (hereinafter "Complainant") paid Respondent \$3,500.00 to represent him with respect to a divorce action.
98. During the period of representation from April, 2005, until February, 2006, substantial work was performed by the Respondent, including, but not limited to, meeting with the client, corresponding with opposing counsel, drafting of discovery, court appearances, etc.
99. After Complainant discharged Respondent in February, 2006, he became aware of an order requiring him to complete parenting classes by April 25, 2005. This order, however, was entered prior to Respondent's involvement in the case.

100. Respondent produced his billing statement to Complainant, who expressed “no complaints”. Complainant stated that Respondent’s fees were a lot less than other attorneys in the area.
101. Respondent produced Complainant’s file within two weeks of being discharged as counsel.
102. Complainant filed the bar complaint against Respondent on January 31, 2008.
103. On February 11, 2008, the Bar mailed a copy of the Complaint to Respondent, to which no response was filed until June 20, 2008.

THE CRYSTAL WHITE MATTER
VSB DOCKET NO. 08-060-073893

104. In July, 2006, Crystal White (hereinafter “Complainant”) paid Respondent \$3,500.00 to represent her with respect to a divorce.
105. Respondent prepared a Separation and Property Settlement Agreement which Complainant’s spouse, Cliff White, refused to sign.
106. Respondent prepared and filed a Bill of Complaint seeking a divorce in the Spotsylvania County Circuit Court.
107. Depositions of the Complainant and her mother, Barbara Jean Woolfley, were taken on June 29, 2007.
108. The Honorable David H. Beck, by letter dated October 22, 2007, declined to enter the decree of divorce on the basis that the proposed decree sought a reservation for adjudication of § 20-107.3 issues, but there was no indication as to why such action was necessary.
109. Respondent did not take the necessary steps to address Judge Beck’s concern in order to have the decree of divorce entered.

110. Complainant had difficulty communicating with the Respondent. Respondent's telephones were cut off for a period of weeks in December, 2007, and January, 2008. When Complainant was able to get in touch with Respondent's office, telephone calls were not returned.
111. In January, 2008, Complainant discharged Respondent as her counsel and requested an accounting and partial refund.
112. Respondent provided a billing statement on June 24, 2008, which reflected a balance due from the Complainant in the amount of \$526.00.
113. Complainant filed the bar complaint against Respondent on January 20, 2008.
114. On February 7, 2008, the Bar mailed a copy of the complaint to Respondent, to which no response was filed until June 20, 2008.

THE KENNETH HARVEY MATTER
VSB DOCKET NO. 08-060-074730

115. In July, 2003, Kenneth Harvey (hereinafter "Complainant") paid Respondent \$2,500.00 to represent him with respect to a divorce.
116. While there were no children born of the marriage and the parties had been separated since 2001, no decree of divorce had been entered prior to 2006.
117. In 2006, Complainant, based upon advice of the Respondent, agreed to delay the divorce proceeding due to a federal indictment he was under.
118. Depositions were taken March 5, 2007. Unfortunately, the depositions could not be filed with the court because of deficiencies in the notary section of the depositions. Randi Miles, legal assistant to the Respondent, wrote a letter to the Complainant dated October 4, 2007, seven months after the depositions were taken, acknowledging the error.

119. Complainant sent letters to the Respondent in October and November, 2007, requesting an update and did not receive any further reply.
120. Complainant filed the bar complaint against Respondent on April 5, 2008.
121. On April 25, 2008, the Bar mailed a copy of the complaint to Respondent, to which no reply was filed until June, 20, 2008.

Upon receipt of all evidence presented as to the allegations of misconduct, the Board heard argument, and then retired to deliberate what violations, if any, the Bar had proved by clear and convincing evidence. Following its deliberation, the Board reconvened in open session and announced that it had found by clear and convincing evidence the following violations:

THE JOSEPH ORLANDO MATTER
VS B DOCKET NO. 07-060-0522

In the case of Joseph Orlando, the Respondent violated Rule 1.4(a).

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.**

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 1.1, Rule 1.15(c)(3), Rule 1.15(c)(4), Rule 1.16(d), Rule 1.3(a), Rule 1.5, Rule 8.4(b), and Rule 8.4(c).

THE RICHARD HEFLIN MATTER
VS B DOCKET NO. 07-060-1 778

In the case of Richard Heflin, the Board did not find violations of the rules charged under that docket number, *to wit*: Rule 1.1, Rule 1.15(c)(4), Rule 1.16(d), Rule 1.3(a), Rule 1.5, Rule 1.6(a), Rule 8.4(b), and Rule 8.4(c).

THE LISA HETRICK MATTER
VSb DOCKET NO. 07-060-1812

In the case of Lisa Hetrick, the Board did not find violations of the rules charged under that docket number, *to wit*: Rule 1.15(c)(4), Rule 1.16(d), Rule 1.5, Rule 8.4(b), and Rule 8.4(c).

THE JOAN WICKER MATTER
VSb DOCKET NO. 07-060-2039

In the case of Joan Wicker, the Respondent violated Rule 1.15(c)(3), Rule 1.15(c)(4), and Rule 1.4(a).

RULE 1.15 Safekeeping Property

(c) A lawyer shall:

- (3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them; and
- (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.

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.

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 1.16(d), Rule 1.3(a), Rule 1.5, Rule 8.4(b), and Rule 8.4(c).

THE STEPHANIE SPINDLE MATTER
VSb DOCKET NO. 07-060-2192

In the case of Stephanie Spindle, the Respondent violated Rule 1.1, Rule 1.3(a), and Rule 1.4(a).

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.**

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 1.5, Rule 8.4(b), and Rule 8.4(c). 22

**THE HOWARD THOMAS MATTER
VSB DOCKET NO. 07-060-2232**

In the case of Howard Thomas, the Board did not find violations of the rules charged under that docket number, *to wit*: Rule 1.1, Rule 1.1 5(f)(2), Rule 1.3(a), Rule 1.4(a), Rule 1.5, Rule 8.4(b), and Rule 8.4(c).

**THE TAMMY WILLOUGHBY MATTER
VSB DOCKET NO. 07-060-2324**

In the case of Tammy Willoughby, the Respondent violated Rule 1.1 and Rule 1.4(a).

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 1.4 Communication

- (a) **A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.**

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 1.3(a), Rule 1.5, Rule 3.3(a)(i), Rule 8.4(b), and Rule 8.4(c).

THE JOHN FORSMAN MATTER
VSB DOCKET NO. 07-060-2403

In the case of John Forsman, the Respondent violated Rule 1.15(f)(5)(i) and Rule 1.15(f)(5)(ii).

RULE 1.15 Safekeeping Property

(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.

(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.**

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 1.15(a)(2), Rule 1.15(e)(1)(4), Rule 5.3(a), Rule 5.3(b), Rule 5.3(c)(1), Rule 5.3(c)(2), Rule 8.4(a) and Rule 8.4(c).

THE JOHN MORGAN MATTER
VSB DOCKET NO. 08-060-072756

In the case of John Morgan, the Respondent violated Rule 1.3(a), Rule 1.4(a), and Rule 8.1(c).

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 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.

The Bar withdrew the charge for violation of Rule 1.16(d).

The Board did not find violations of the other rules charged under that docket number: *to wit*: Rule 1.15(c)(3), Rule 1.15(c)(4), Rule 1.5, Rule 8.4(b), and Rule 8.4(c).

**THE WILLIAM WALKER MATTER
VSB DOCKET NO. 08-060-072958**

The Bar withdrew the charge for violation of Rule 8.1(a).

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 4.1(a), Rule 8.4(b), and Rule 8.4(c).

**THE VERONICA ROMERO MATTER
VSB DOCKET NO. 08-060-073476**

In the case of Veronica Romero, the Respondent violated Rule 8.1(c).

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.

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 8.1(d) and Rule 8.4(b).

THE JEFFREY LENNON MATTER
VSB DOCKET NO. 08-060-073489

In the case of Jeffrey Lennon, the Respondent violated Rule 8.1(c)

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.**

The Bar withdrew the charge for violation of Rule 8.1(d).

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 8.4(b) and Rule 8.4(c).

THE NORMA VOGT MATTER
VSB DOCKET NO. 08-060-073591

In the case of Norma Vogt, the Respondent violated Rule 1.1 5(c)(3) and Rule 1.3(a).

RULE 1.15 Safekeeping Property

- (c) A lawyer shall:**
 - (3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them.**

RULE 1.3 Diligence

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

The Board withdrew the charge for violation of Rule 8.1(d) and Rule 1.16(a).

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 1.1 5(c)(4), Rule 1.16(d), Rule 1.16(e), Rule 1.5, Rule 8.1(c), Rule 8.4(b), and Rule 8.4(c).

THE VIOLET IRVIN MATTER
VSB DOCKET NO. 08-060-073732

In the case of Violet Irvin, the Board did not find violations of the rules charged under that docket number, *to wit*: Rule 8.1(c), Rule 8.1(d), Rule 8.4(b), and Rule 8.4(c).

THE DAVID ROCKE MATTER
VSB DOCKET NO. 08-060-073843

In the case of David Rocke, the Board did not find violations of the rules charged under that docket number, *to wit*: Rule 1.1, Rule 1.3(a), Rule 1.5, Rule 8.1(c), Rule 8.1(d), Rule 8.4(b), and Rule 8.4(c).

THE CRYSTAL WHITE MATTER
VSB DOCKET NO. 08-060-073893

In the case of Crystal White, the Respondent violated Rule 1.1 and Rule 1.4(a).

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 1.4 Communication

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.**

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 1.15(c)(3), Rule 1.16(d), Rule 8.1(c), Rule 8.1(d), Rule 8.4(b), Rule 8.4(c), and Rule 1.15(c)(4).

THE KENNETH HARVEY MATTER
VSB DOCKET NO. 08-060-074730

In the case of Kenneth Harvey, the Respondent violated Rule 1.3(a) and Rule 1.4(a).

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.**

The Board did not find violations of the other rules charged under that docket number, *to wit*: Rule 8.1(c), Rule 8.1(d), Rule 8.4(b), and Rule 8.4(c).

CONSIDERATION OF SANCTION

After announcing its findings of misconduct, the Board called for evidence in mitigation or aggravation. No additional documentary evidence was offered by the Bar or the Respondent.

The Bar argued that aggravating factors included:

- (1) a prior disciplinary record;
- (2) a pattern of misconduct;
- (3) multiple violations;
- (4) obstruction with the investigatory process; and,
- (5) refusal to acknowledge wrongful nature of misconduct.

The Bar sought revocation of Respondent's license to practice law.

Respondent argued that he was remorseful. He expressed regret that his clients did not have a more positive experience. He emphasized that there was no intentional wrongdoing. Respondent noted that while he has received discipline on prior occasions, all such misconduct resulted in dismissals with terms or private reprimands or admonitions, with or without terms.

The Respondent understates the importance of the prior discipline. It was a wakeup call to protect the public from a repetition of the misconduct. The misconduct found in this matter shows that the Respondent did not get, or ignored, the message of the prior discipline. Protection of the public is the polestar in determining a sanction for misconduct.

In the instance of the Respondent 's violations of Rule 1.4(a), the Respondent's explanation was that, although client telephone calls were unanswered or not returned by him, the client could have made an appointment with his secretary for an office visit. The Board rejects this as a defense because it shifts his responsibility for communication to the client. The Respondent was his client's fiduciary. A fiduciary who expects his client to chase him for information betrays the loyalty owed to the client.

In the instance in which the Board found violations of Rule 1.1 and Rule 1.3(a), the Respondent observed that lawyers he employed had left, and that he had 200-250 cases he was handling. The strong inference is that his caseload did not permit him to represent each client competently with reasonable diligence. The Respondent's practice consisted of "oiling the wheel that squeaked the loudest." In doing so, clients were left adrift without diligent, competent representation.

With respect to violations of Rule 8.1(c), the Board notes that a failure to respond to a bar complaint obstructs the Bar's investigative process to ascertain the facts underlying a complaint and skews a level playing field for the Respondent and the Bar.

In the instance in which the Board found trust account violations of Rule 1.1 5(c)(3) and Rule 1.1 5(f)(5), the Respondent explained that his secretary/bookkeeper took six weeks maternity leave. The Respondent admitted that his monthly trust account reconciliation is undone for several months up to this hearing.

The maternity leave of the Respondent's secretary/bookkeeper does not exonerate him. The responsibility is the Respondent's. He could have, and should have, arranged for a temporary bookkeeper, or done the work himself. Compliance was not suspended during the period of the bookkeeper's maternity leave. In fact, reconciliations were months behind before maternity leave was taken.

Upon consideration of all evidence presented and argument of Bar Counsel and the Respondent, the Board retired to deliberate what sanction should be imposed. Following its deliberation, the Board reconvened in open session and announced that it had unanimously found that the Respondent's license to practice law in the Commonwealth of Virginia should be suspended for a period of 18 months. Accordingly, it is ORDERED that the license of the Respondent, Owaiian Maurice Jones, to practice law in the Commonwealth of Virginia be and hereby is SUSPENDED for a period of 18 months effective June 27, 2008.

It is further ORDERED that the Respondent must comply with the requirements of Part 6, Section IV, ¶ 13(m) 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 clients. The Respondent shall give such notice within 14 days of the effective date of this order, and make such arrangements as are required herein within 45 days of the effective date of this order. The Respondent shall furnish proof to the Board within 60 days of the effective date of the Order of Suspension that such notices have been timely given and such arrangements for disposition of matters made.

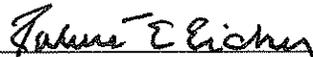
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of this order, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and the arrangements required herein shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction or 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 Respondent, Owaiian Maurice Jones, at his address of record with the Virginia State Bar, by certified mail, return receipt requested, P.O. Box 8320, Fredericksburg, Virginia, 22404-8320.

Pursuant to Part 6, Section IV, ¶ 13.B.8(c) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

Entered this 31st day of July, 2008.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Robert E. Eicher, Chair