

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. At all times relevant, the Respondent has been licensed to practice law in the Commonwealth of Virginia.

VSB 09-060-079121
(Rollins Complaint)

2. On or about March 24, 2004, complainant Mary Rollins was involved in an automobile accident. Thereafter, she retained the Respondent to represent her in a personal injury claim arising from the accident.
3. The Respondent accepted the case on a contingency fee. Despite the requirement of Rule 1.5 of the Rules of Professional Conduct that all contingency fees be in writing, the Respondent did not have a written fee agreement for his representation of Ms. Rollins.
4. On or about March 23, 2006, the Respondent filed a personal injury suit on Ms. Rollins' behalf.
5. On or about June 19, 2006, the Court granted the defendant's motion to compel discovery.
6. On or about January 18, 2007, a pre-trial scheduling order was entered and trial was set for April 14-15, 2008.
7. The pre-trial scheduling order contained a deadline for the plaintiff to file expert designations ninety days prior to trial.
8. The Respondent failed to file his expert designation prior to the deadline.
9. On or about February 25, 2008, the defendant's motion to exclude plaintiff from presenting expert testimony was granted.
10. On or about April 7, 2008, the Respondent nonsuited the case.
11. On or about September 30, 2008, the Respondent refiled Ms. Rollins' suit.

12. On or about March 26, 2009, Ms. Rollins filed a bar complaint against the Respondent alleging a failure to communicate.
13. The Respondent did not respond to the bar complaint.
14. From February-June 2010, in the underlying litigation, counsel for the defendant tried unsuccessfully to schedule depositions.
15. On or about June 4, 2010, the defense filed a motion to compel discovery alleging a lack of cooperation in scheduling plaintiff's deposition.
16. In or about July, 2010, Ms. Rollins gave a deposition. The Respondent was present.
17. According to Ms. Rollins, as of November, 2010, despite numerous calls to the Respondent's office, Ms. Rollins had not spoken to the Respondent since her deposition in July, and she did not know the status of her case.
18. The file activity sheet in the Respondent's client file lists only one telephone call to Ms. Rollins, in September 2009.
19. The Respondent did not submit to an interview, as requested by the Virginia State Bar's investigator.

VSB Docket No. 10-060-083220
(Welborn Complaint)

20. On or about January 4, 2001, Crystal Welborn was involved in an automobile accident. At the time, she was a minor. Thereafter, in or about March 2001, she retained the Respondent to represent her in a personal injury claim arising from the accident.
21. The Respondent accepted the case on a contingency fee. Despite the requirement of Rule 1.5 of the Rules of Professional Conduct that all contingency fees be in writing, the Respondent did not have a written fee agreement for his representation of Ms. Welborn.
22. On or about November 26, 2002, the Respondent filed a personal injury suit on behalf of Ms. Welborn.
23. In or about April 2005, the Respondent took the defendant's deposition, during which the defendant testified that he resided in Chesapeake, Virginia.
24. On or about April 13, 2005, an agreed order was entered staying the proceedings until the defendant's discharge from military service.

25. On or about November 6, 2007, the Respondent filed a nonsuit.
26. On or about May 1, 2008, the Respondent refiled Ms. Welborn's suit.
27. On or about April 29, 2009, the Respondent caused the wrong person to be served with the suit papers. The person served had the same first and last name as the defendant, but had a different middle name and lived in Leesburg, Virginia.
28. On or about October 5, 2009, the Court dismissed Ms. Welborn's suit on the basis that the proper defendant had not been timely served. In granting the motion to dismiss, the Court found that the Respondent had failed to exercise due diligence in locating the proper defendant for service of process.
29. On or about November 4, 2009, the Respondent filed a notice of appeal.
30. The Respondent did not thereafter file a petition for appeal.
31. On or about March 24, 2010, Ms. Welborn filed a bar complaint.
32. The Respondent did not respond to the bar complaint.
33. On or about July 9, 2010, the bar issued to the Respondent a subpoena *duces tecum* for the client file. The Respondent did not respond. On or about November 4, 2010, the bar filed a notice of noncompliance with the Virginia State Bar Disciplinary Board. On or about December 3, 2010, the Respondent provided the client file pursuant to the subpoena.
34. The Respondent did not submit to an interview, as requested by the Virginia State Bar's investigator.

VSB Docket No. 11-060-084857
(Henson Complaint)

35. On or about August 4, 2009, Ms. Henson's husband retained the Respondent to represent him on a criminal matter. Soon thereafter, he paid the Respondent an advanced legal fee of \$7500. In November 2009, Mr. Henson pleaded guilty pursuant to a plea agreement.
36. On or about August 5, 2010, Ms. Henson went to the Respondent's office to retrieve her husband's file. She was accompanied by her minor child and a friend.
37. On or about August 11, 2010, Ms. Henson filed a bar complaint.

38. The Respondent did not respond to the bar complaint.
39. On or about October 26, 2010, the bar issued to the Respondent a subpoena *duces tecum* for trust account records and the client file. The Respondent did not respond, and on or about December 3, 2010, the bar sent the Respondent a letter stating its intent to file a notice of noncompliance with the Virginia State Bar Disciplinary Board if the Respondent did not promptly respond to the subpoena. On or about December 14, 2010, the Respondent provided the client file pursuant to the subpoena.
40. The Respondent did not provide any trust account records in response to the subpoena.
41. The Respondent did not submit to an interview, as requested by the Virginia State Bar's investigator.

II. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by the Respondent, Vernon Keeve, Jr., constitutes misconduct in violation of the following Rules of Professional Conduct:

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

- (c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall state in writing the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

RULE 1.15 Safekeeping Property

(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 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:

- (d) obstruct a lawful investigation by an admissions or disciplinary authority.

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the agreed disposition, the Disciplinary Board **ORDERS** that a ten (10) day suspension with terms be imposed. The suspension shall begin on November 14, 2011. The terms with which the Respondent must comply are as follows:

1. The Respondent shall sign and comply with a two-year monitoring agreement with Lawyers Helping Lawyers to begin on November 8, 2011. The Respondent shall sign all appropriate releases allowing Lawyers Helping Lawyers to advise the Virginia State Bar if the Respondent is not in compliance with his monitoring agreement and the factual basis supporting the determination that the Respondent is not in compliance.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, all the terms and conditions are not met by the deadlines imposed above, the Disciplinary Board shall impose a six-month suspension pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

It is further ORDERED that the 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 clients. The 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 an attested copy of this order to the Respondent, Vernon Keeve, Jr., by certified mail, at his last address of record with the Virginia State Bar, 4101 Lafayette Boulevard, Fredericksburg, VA 22408, by regular mail to Michael L. Rigsby, Respondent's Counsel, at Michael L. Rigsby, PC, P.O. Box 29328, Henrico, VA 23242, and by hand-delivery to Kathryn R. Montgomery, Deputy Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219.

Angela N. Sidener, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227,
804.730.1222 was the court reporter for the hearing and transcribed the proceedings.

ENTERED: November 10 2011

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Thomas R. Scott, Jr.
Thomas R. Scott, Jr. Chair