

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD** **received**

**VIRGINIA STATE BAR**

JUN 18 2007

v.

**VSb CLERK'S OFFICE**

**KHALIL WALI LATIF**

**Case No.: 07-769**

**ORDER**  
**(1 YEAR AND 1 DAY SUSPENSION WITH TERMS)**

On May 31, 2007 this matter came before the Three-Judge Court consisting of The Honorable Aundria Deloris Foster of the Seventh Judicial Circuit, designated as Chief Judge, The Honorable James E. Kulp, Retired Judge of the Fourteenth Judicial Circuit, and The Honorable Walter J. Ford, Retired Judge of the Eighth Judicial Circuit, which was empanelled by designation of the Chief Justice of the Supreme Court of Virginia pursuant to §54.1-3935 of the Code of Virginia. The parties, the Virginia State Bar, by Assistant Bar Counsel Kathryn R. Montgomery, and the respondent Khalil Wali Latif ("Respondent"), by counsel Thomas H. Roberts, appeared telephonically and presented an Agreed Disposition for approval pursuant to Part Six, Section IV, Paragraph 13.B.5.c of the Rules of the Supreme Court of Virginia. The proceedings were recorded by stenographic means by Donna Chandler of Chandler & Halaz, Inc., P.O. Box 9349, Richmond, VA 23227, (804) 730-1222

The Court, having reviewed the Agreed Disposition and having considered the statements of counsel, hereby approves the Agreed Disposition of the parties and hereby finds by clear and convincing proof the following:

## I. FINDINGS OF FACT

1. Khalil Abdul Latif, formerly known as Khalil Wali Latif, and prior to that as Alan Eugene Barnett, Sr., was admitted to the practice of law in the Commonwealth of Virginia on April 25, 1991.

**VSB Docket No. 06-031-0572**  
**Complainant: Junious Mottley**

2. On September 18, 2004, Complainant Junious Mottley was arrested on charges in Nottoway County of unlawful possession of a firearm and shooting into a dwelling.

3. Mr. Mottley engaged Respondent to represent him on those charges and his grandmother paid Respondent. According to both Mr. Mottley and Respondent, the total amount paid was \$2500.

4. Mr. Mottley understood from Respondent that the amount paid was a flat fee for representation through trial.

5. Respondent met with Mr. Mottley in jail, represented him in a bond hearing, investigated his case, met with witnesses, conferred with the commonwealth attorney in an attempt to resolve the case, prepared for hearings and trial, and appeared at a preliminary hearing on Mr. Mottley's behalf. A bench trial was set for December 22, 2004. On the date of the trial, after Respondent had prepared for the trial, Mr. Mottley requested and Respondent moved on his behalf for a jury trial and the matter was continued to January 31, 2005 for a jury trial.

6. On January 28, 2005, Respondent was suspended from the practice of law for two years. The suspension was imposed, effective immediately, following a show cause

hearing before the Virginia State Bar Disciplinary Board. Respondent was present for the pronouncement of the sanction.

7. Subsequent to Respondent's suspension, new counsel was appointed for Mr. Mottley and his trial was continued to June 20, 2005.

8. Mr. Mottley asked Respondent for a refund and Mr. Mottley claims Respondent said he would refund a portion of his fee. Respondent denied this allegation.

9. Respondent did not refund any portion of his fee to Mr. Mottley or his grandmother.

[Applicable rule violations: Rule 1.15(c)(4) and 1.16(d)]

**VSB Docket No. 06-031-0876**  
**Complainant: Phyllis Smith**

10. Respondent represented Complainant Phyllis Smith's son, Michael Jones, a/k/a Rakim Shabazz, for various charges related to a break-in occurring in Campbell County in September 2002.

11. Mr. Jones was found guilty of statutory burglary and sentenced in or about July 2004.

12. Respondent subsequently noted an appeal to the Court of Appeals of Virginia on Mr. Jones's behalf.

13. On January 21, 2005, the Court of Appeals denied the appeal.

14. On January 28, 2005, Respondent was suspended from the practice of law for two years. The suspension was imposed, effective immediately, following a show cause hearing before the Virginia State Bar Disciplinary Board. Respondent was present for the pronouncement of the sanction.

15. On February 4, 2005, Respondent, acting as legal counsel for Mr. Jones, filed a Petition for Rehearing by a Three-Judge Panel with the Court of Appeals of Virginia.

[Applicable rule violation: Rule 5.5(a)(1)]

**VSB Docket No. 06-031-2091**  
**Complainant: Penny Taylor**

16. In November 2004, Complainant Penny Taylor's brother, James Moorefield, was charged in Cumberland County for manufacturing marijuana and unlawful firearms possession. Mr. Moorefield was later indicted on several firearms charges in the United States District Court for the Western District of Virginia.

17. Mr. Moorefield engaged Respondent to represent him in the state cases. Mr. Moorefield advised the Bar that Respondent's fee was \$3500 per case; however, Respondent told the Bar his fee was \$3500 total to handle both cases.

18. Mr. Moorefield's employer, BAWCO, Inc., paid Respondent \$3500 by check dated December 16, 2004.

19. Respondent did not maintain a subsidiary ledger for his representation of Mr. Moorefield.

20. On January 5, 2005, Mr. Moorefield and Complainant Penny Taylor appeared for a hearing in federal court. Respondent had not made an appearance for Mr. Moorefield in federal court. On the way to federal court, Mr. Moorefield called Respondent who returned Mr. Moorefield's call and advised him that he had not been engaged to represent him in federal court, but that he would make an appearance upon admission to that court and therefore would not be present in federal court. At the hearing, Judge Moon advised Mr. Moorefield that Respondent was not admitted to practice in the Western District of Virginia.

21. After the hearing, Mr. Moorefield told Respondent what the judge had said. Respondent responded that he would take steps to be admitted.

22. On January 20, 2005, Mr. Moorefield and Respondent appeared in federal court on the federal charges. Respondent, however was concerned that Judge Moon was biased against him, based upon statements made to him during the hearing, and that said bias might detrimentally impact his client, and therefore Respondent withdrew from the representation and the court continued the hearing. Another attorney was later appointed to represent Mr. Moorefield on the federal charges.

23. After Respondent withdrew from the representation in federal court, he did not refund any portion of the \$3500 fee paid, nor did Mr. Moorefield request a refund. At this time, Mr. Moorefield considered the \$3500 paid as payment in full for Respondent's representation of him in the state court proceedings.

24. Respondent appeared at one hearing in Cumberland County on behalf of Mr. Moorefield.

25. On January 28, 2005, Respondent was suspended from the practice of law for two years. The suspension was imposed, effective immediately, following a show cause hearing before the Virginia State Bar Disciplinary Board. Respondent was present for the pronouncement of the sanction.

26. Thereafter, Respondent and Mr. Moorefield met and Respondent told him that attorney Bernice Turner would take over the Cumberland County representation. Mr. Moorefield agreed.

27. Respondent did not refund to Mr. Moorefield any portion of the \$3500 fee paid, nor did he transfer any portion of that amount to Bernice Turner.

[Applicable rule violation: Rule 1.16(d)]

**VSB Docket No. 06-031-2272**  
**Complainant: Tyree Vaughan**

28. In October or November of 2004, Complainant Tyree Vaughan retained Respondent to represent him in Nottoway County on charges of assault and battery and destruction of property.

29. On or about November 5, 2004, Mr. Vaughan paid Respondent \$1000 for the representation. Mr. Vaughan understood from Respondent this payment was a flat fee for representation through trial.

30. Respondent met with Mr. Vaughan numerous times, interviewed witnesses appeared at two hearings on Mr. Vaughan's behalf, (the second hearing Mr. Vaughan failed to appear and a capias was issued). Mr. Vaughan's trial was set for February 2005.

31. On January 28, 2005, Respondent was suspended from the practice of law for two years. The suspension was imposed, effective immediately, following a show cause hearing before the Virginia State Bar Disciplinary Board. Respondent was present for the pronouncement of the sanction.

32. In February 2005, while in court after having been found and arrested on the capias, Mr. Vaughan learned of Respondent's suspension when the Commonwealth's Attorney so advised the judge. Another attorney was then appointed by the Court to represent Mr. Vaughan.

33. Mr. Vaughan subsequently spoke with Respondent and requested a refund. Mr. Vaughan claims Respondent agreed to refund \$600. Respondent agreed to refund \$500. However, Respondent did not refund any money to Mr. Vaughan.

[Applicable rule violations: Rule 1.15(c)(4) and 1.16(d)]

**VSB Docket No. 06-031-3338**  
**Complainant: Virginia State Bar**

34. On January 28, 2005, Respondent was suspended from the practice of law for two years. The suspension was imposed, effective immediately, following a show cause hearing before the Virginia State Bar Disciplinary Board. Respondent was present for the pronouncement of the sanction.

35. Prior to Respondent's suspension, he charged clients a flat fee of \$709 to file a sole debtor Chapter 7 bankruptcy and a flat fee of \$909 for a joint debtor Chapter 7 bankruptcy.

36. On January 28, 2005, Sharon Waters wrote Respondent a check in the amount of \$909 to initiate a bankruptcy. The check number was 141.

37. Using a deposit slip dated January 28, 2005, Respondent deposited Ms. Waters's \$909 check into his trust account, referencing the matter as #001280A. Respondent's bank credited his trust account with \$909 on February 2, 2005.

38. On February 4, 2005, Respondent wrote himself a check from the trust account in the amount of \$1025, and referenced \$200 of that amount was for matter #001280A, Ms. Waters's case, which Respondent contended he earned while his license was not suspended.

39. On February 11, 2005, Respondent wrote himself a check from the trust account for \$600, and referenced that \$300 of that amount was for matter #001280A, Ms. Waters's case, which Respondent contended he earned while his license was not suspended.

40. On May 27, 2005, attorney Bernice Stafford Turner filed a bankruptcy petition for Ms. Waters. The filing fee of \$209 was paid by Respondent from the \$909 Respondent had collected from Ms. Waters.

41. Other than the filing fee, Respondent did not refund to Ms. Waters or transfer to Ms. Turner any of the remaining funds Ms. Waters had paid Respondent.

42. On January 27, 2005, Andrew Woodson met with Respondent and wrote him a check numbered 1721 in the amount of \$709 to initiate a bankruptcy. Prior to this meeting, Mr. Woodson had met with Respondent once, but had not provided him with any documentation needed for filing bankruptcy.

43. Using a deposit slip dated January 27, 2005, Respondent deposited Mr. Woodson's check into his trust account, referencing the matter as #00203A. Respondent's bank credited his trust account with \$709 on February 4, 2005.

44. On February 4, 2005, Respondent wrote himself a check from the trust account in the amount of \$1025, and referenced that \$200 of that amount was for matter #00203A, Mr. Woodson's case, which Respondent contended he earned while his license was not suspended.

45. On February 11, 2005, Respondent wrote himself a check from the trust account for \$600, and referenced that \$300 of that amount was for matter #00203A, Mr. Woodson's case, which Respondent contended he earned while his license was not suspended.

46. On March 31, 2005, attorney Bernice Stafford Turner filed a bankruptcy petition for Mr. Woodson. The filing fee of \$209 was paid by Respondent from the \$909 Respondent had collected from Mr. Woodson.

47. Other than the filing fee, Respondent did not refund to Mr. Woodson or transfer to Ms. Turner any of the remaining funds Mr. Woodson had paid Respondent.

48. As of April 29, 2005, Respondent's trust account had a balance of \$4.31.

[Applicable rule violation: Rule 1.16(d)]

## II. RULES OF PROFESSIONAL CONDUCT

Based upon the factual findings above, the Court finds by clear and convincing evidence that Respondent violated the following Rules of Professional Conduct:

### 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.

### RULE 1.16 Declining Or Terminating Representation

- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

### RULE 5.5 Unauthorized Practice Of Law

(a) A lawyer shall not:

- (1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction;

### III. DISPOSITION

It is hereby ORDERED that Respondent's license to practice law be suspended for one year and one day, and that the suspension begin on October 28, 2007 and end October 29, 2008. The following terms apply:

1. Respondent Khalil Wali Latif shall remit the following amounts to the following persons by August 1, 2007:
  - \$750 to Gratna Taylor, grandmother of complainant and former client of Respondent Junious Mottley,
  - \$1250 to James Moorefield, brother of complainant Penny Taylor and former client of Respondent, made payable to "James Moorefield or Penny Taylor, Power of Attorney for James Moorefield" and mailed to Penny Taylor,
  - \$500 to complainant and former client of Respondent, Tyree Vaughan, and
  - \$400 to Lisa Scruggs, former client of Respondent and complainant in Virginia State Bar Docket Number 07-031-2414.

**Time is of the essence with regard to payment of these amounts.**

2. All terms previously agreed to and ordered by the Virginia State Bar Disciplinary Board in its Order of June 30, 2006 remain in effect.

If, however, Respondent fails to meet these terms within the time specified, Revocation is the alternative sanction. If there is disagreement as to whether the terms were fully and timely completed, the Virginia State Bar Disciplinary Board will conduct a hearing on the issue. At the hearing, the sole issue shall be whether Respondent fully completed the terms within the time specified above. The Respondent shall have the burden of proof by clear and convincing evidence at the hearing.

In consideration of this Agreed Disposition, the Virginia State Bar agreed to dismiss Virginia State Bar docket number 07-031-2414 (complainant: Scruggs) by August 31, 2007 unless Respondent failed to timely comply with the terms set forth above. The Virginia State Bar is hereby ORDERED to comply with this agreement.

It is further ORDERED that this case, which includes Virginia State Bar docket numbers 06-031-0532, 06-031-0876, 06-031-2091, 06-031-2272, and 06-031-3338, is hereby DISMISSED.

It is further ORDERED that the Clerk of the Disciplinary System shall assess the appropriate administrative fees, and the Clerk of the Circuit Court of Chesterfield County shall mail a certified copy of this Order to:

Khalil Wali Latif  
P.O. Box 5300  
Midlothian, VA 23112

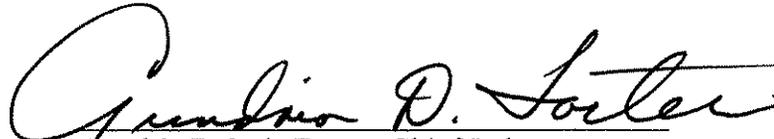
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Pursuant to Rule 1:13 of the Rules of Court, the Court dispenses with the requirement that all counsel of record endorse this Order.

ENTERED THIS 12 DAY OF June, 2007.

  
Aundria Deloris Foster, Chief Judge

A COPY TESTE:  
JUDY L. WORTHINGTON, CLERK  
BY C. Z. Heuley  
DEPUTY CLERK