

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD OF THE VIRGINIA STATE BAR

IN THE MATTER OF
ANNE MARSTON LYNCH

VSB DOCKET NOS. 08-010-071408, 08-010-071625, 08-010-072683, 08-010-072684 and
08-010-074537

ORDER OF SUSPENSION

THIS MATTER came on to be heard on the 15th day of May 2009, before a panel of the Disciplinary Board consisting of Robert E. Eicher, Chair, John S. Barr, Sandra L. Havrilak, Russell W. Updike, and Stephen Wannall, Lay Member. The Virginia State Bar was represented by Richard E. Slaney, Assistant Bar Counsel. The Respondent, Anne Marston Lynch, appeared in person and was represented by Michael Rigsby. The Chair polled the members of the Board Panel whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative. Tracy J. Johnson, court reporter, Chandler & Halasz, PO Box 9349, Richmond, VA 23227, 804-730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the District Committee Determination for Certification by the First District Committee.

Bar Counsel and the Respondent's counsel presented an Agreed Disposition. The Chair noted the following provision of the Pre-Hearing Order: "Any proposed agreed disposition reached by counsel shall be presented to the Board not later than the Friday next preceding the hearing; otherwise, the Board will treat the agreed disposition as a stipulation of facts and

misconduct.” Accordingly, the Chair announced that the Agreed Disposition would be received as a stipulation of facts and misconduct, and Bar Counsel and Respondent’s counsel so agreed.

I. STIPULATION OF FACTS

1. At all times relevant to these matters, Lynch was an attorney licensed to practice law in the Commonwealth of Virginia.

The Healey Matter 08-010-071408

2. In late 2003, one Roland Healey (Healey) hired Lynch to assist in removing liens on real property he wanted to purchase. Healey hired Lynch as Lynch had previously represented the owner of the property and was familiar with it.

3. Lynch worked on the matter and on several occasions advised Healey and his broker, Wendell Francis (Francis), that all liens were addressed and he could close; however, problems always arose that prevented closing.

4. Sometime in mid 2006, Lynch stopped responding to attempts to communicate by Healey and Francis and stopped working on the matter.

5. Lynch received the initial inquiry letter from Intake Counsel dated July 24, 2007, and the complaint letter from Assistant Bar Counsel dated August 13, 2007, but failed to respond to them. She also agreed to provide the Bar’s investigator certain documentation, but failed to provide it or to respond to the investigator’s follow up requests for that documentation.

The Terry Appeal 08-010-071625

6. On November 8, 2006, Lynch was appointed to represent one Phillip Terry (Terry) on a direct appeal to the Court of Appeals, after Terry won the right to pursue a delayed appeal.

7. On December 22, 2006, the Court of Appeals denied Terry’s appeal.

8. Lynch failed to advise Terry of the denial of the appeal by the Court of Appeals or to file a further appeal to the Virginia Supreme Court.

9. Lynch received the complaint letter from Intake Counsel dated August 8, 2007, but failed to respond to it.

The Brewer Appeal 08-010-072683

10. On May 29, 2007, Lynch filed a Notice of Appeal to the Court of Appeals for one William Brewer, III (Brewer).

11. When interviewed, Lynch claimed she never received the Notice of the filing of the record in the Brewer appeal. Once she realized the record had been filed, she sought an extension in which to file the Petition for Appeal and later filed a Petition for Appeal; however, neither was timely and the Court of Appeals dismissed Brewer's appeal on that basis on September 17, 2007.

12. Lynch failed to advise Brewer of the dismissal of his appeal and failed to advise him of the possibility of seeking a delayed appeal.

13. Lynch received the complaint letter from Assistant Bar Counsel dated November 13, 2007, but failed to respond to it.

The Jordan Appeal 08-010-072684

14. On March 2, 2007, Lynch was appointed to represent one Cleveland Jordan (Jordan) in a criminal case.

15. Jordan lost his case, and on August 30, 2007, Lynch filed a Notice of Appeal to the Court of Appeals.

16. The Notice of Appeal filed by Lynch failed to indicate she was court appointed. No filing fee was paid, and a Deputy Clerk called and wrote to Lynch requesting the filing fee or

proof Jordan was exempt. Lynch failed to respond and the Court of Appeals dismissed the appeal for failure to pay the filing fee.

17. Lynch failed to advise Jordan of the dismissal or of the possibility of seeking a delayed appeal.

18. Lynch received the complaint letter from Assistant Bar Counsel dated November 13, 2007, but failed to respond to it.

The Budd Appeal 08-010-074537

19. On July 10, 2007, Lynch was appointed to represent one Kameshia Budd (Budd) in a criminal case.

20. Budd lost her case, and on October 26, 2007, Lynch filed a Notice of Appeal to the Court of Appeals; however, Lynch failed to file a Petition for Appeal and the appeal was dismissed by the Court of Appeals.

21. Lynch failed to advise Budd of the dismissal or of the possibility of seeking a delayed appeal.

22. Lynch failed to respond to the complaint letter from Assistant Bar Counsel dated April 10, 2008, or to attempts to communicate from the Bar's investigator.

II. MISCONDUCT

The Certification charged violations of, and the Respondent stipulated to, the following provisions of the Virginia 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 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; or

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

III. DISPOSITION

The Board accepted the stipulation and found by clear and convincing evidence that the Respondent violated the aforesaid Rules. The Board dismissed the charge of violating Rule 1.15(c)(4) that was included in the Certification regarding the Brewer Appeal.

Upon review of the foregoing and argument of Counsel, the Board recessed to deliberate. After due deliberation the Board reconvened and announced to Bar Counsel, counsel for the Respondent, and Respondent that if agreed to by Bar Counsel and the Respondent and her counsel, the Board would suspend the Respondent's license to practice for one (1) year with terms for her on-going medical and psychological care and treatment and with an alternative discipline of a suspension for three (3) years. The Board then recessed to permit the Respondent and her counsel to confer privately.

The Board thereafter reconvened, and the Respondent's counsel represented that the Respondent accepted the Board's suggested sanction.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia be and hereby is suspended for one year, effective May 15, 2009, upon the following terms:

Respondent shall continue to receive treatment from her doctor and her psychologist until discharged; each of them, with the Respondent's consent, shall file on a quarterly basis from the date hereof with the Office of Bar Counsel at its offices in Richmond, Virginia, a written statement confirming her continued treatment. It shall be Respondent's responsibility to insure that the required written confirmation statement(s) of continuing treatment until discharged is sent to Office of Bar Counsel. In the event Respondent fails to continue her treatment, an alternative discipline of a suspension of three (3) years will be imposed upon a hearing on a Rule to Show Cause.

It is further ORDERED that, as directed in the Board's May 15, 2009, Summary Order in this matter, Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall provide the Clerk of the Disciplinary System a written statement that, within 14 days of the Summary Order, that she gave notice by certified mail, return receipt requested, of the Suspension of her license to practice law in the Commonwealth of Virginia, to all clients for whom she 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 her care in conformity with the wishes of her client. Respondent shall make such arrangements as are required 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.

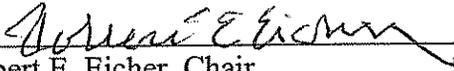
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of Suspension, she shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) 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 pursuant to Part Six, § IV, 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to respondent Anne Marston Lynch at her address of record 425 Sussex Drive, Portsmouth, VA 23707, with the Virginia State Bar, by certified mail, return receipt requested, by regular mail to Michael I. Rigsby, Esquire, at Carrell Rice & Rigsby, Forest Plaza II, Suite 310, 7275 Glen Forest Drive, Richmond, VA 23226, and by hand to Richard E. Slaney, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 9th day of June, 2009

VIRGINIA STATE BAR DISCIPLINARY BOARD


Robert E. Eicher, Chair