

VIRGINIA:

BEFORE THE THIRD DISTRICT COMMITTEE SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
JOHN B. MANN

VSB Docket No. 07-033-1418, 07-033-1882, and 07-033-070688

**SUBCOMMITTEE DETERMINATION**  
**PUBLIC ADMONITION WITH TERMS**

On March 3, 2007, a meeting in this matter was held before a duly convened Third District, Section III, Subcommittee consisting of Edward S. Whitlock, III, Chair, David P. Baugh, Esquire and Margaret E. McDermid, lay member.

Pursuant to Part 6, Section IV, Paragraph 13G.1.b of the Rules of the Supreme Court, the Third District, Section I, Subcommittee of the Virginia State Bar hereby serves upon the Respondent, John B. Mann, the following Public Admonition With Terms, resulting from an Agreed Disposition tendered to it by the Respondent and Assistant Bar Counsel.

**I. FINDINGS OF FACTS**

**A. VSB Docket No. 07-033-1418**  
Complainant: VSB (George Morton Appeal)

1. At all times relevant hereto, John B. Mann ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent has been licensed to practice law in the Commonwealth since August 26, 1970.
3. Respondent was counsel of record in the Virginia Court of Appeals in the case of Morton v. Commonwealth, Record No. 1103-06-2.
4. Respondent was appointed to represent George Morton in and appeal of criminal convictions in the Richmond Circuit Court.
5. Respondent filed a Notice of Appeal on Mr. Morton's behalf that was received by the trial court on May 1, 2006.

6. On July 20, 2006, Respondent requested an extension of 30 days because the court reporter had not prepared the transcripts.

7. The court granted an extension only until July 31, 2006.

8. The transcript did not arrive before July 31, 2006, but Respondent failed to request a second extension.

9. The Court of Appeals issued a rule to show cause why the appeal should not be dismissed for lack of transcript, and Respondent failed to answer it.

10. The Court of Appeals dismissed the appeal on September 14, 2006.

11. Respondent filed a petition for appeal on September 26, 2006.

12. Respondent admitted to the Virginia State Bar's investigator that he failed to request a second extension for filing the transcripts.

13. Respondent also stated that as mitigation he filed a petition for a belated appeal, which was granted.

Such conduct by John B. Mann constitutes violations of the following provisions of the Rules of Professional Conduct:

**RULE 1.3 Diligence**

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

**B. VSB Docket No. 07-033-1882  
Complainant: VSB (Clifford Samy Appeal)**

1. At all times relevant hereto, John B. Mann ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Respondent has been licensed to practice law in the Commonwealth since August 26, 1970.

3. Respondent was counsel of record in the Virginia Court of Appeals in the case of Samy v. Commonwealth, Record No. 1858-06-2.

4. Respondent was retained to represent Clifford Samy on charges of possession of cocaine. After Samy's conviction, the trial court appointed him counsel for the appeal.

5. Respondent filed a notice of appeal on July 31, 2006.

6. On October 20, 2006, Respondent file a motion to extend the time to file the transcripts based on what he called an "oversight" on the part of his office.

7. The Court of Appeals denied the motion because it was not timely filed and dismissed the appeal on October 25, 2006.

8. On November 6, 2006, Respondent filed a Reply to the Order of dismissal again requesting that Mr. Samy be given leave to file the transcripts late.

9. The Court of Appeals denied that request on November 13, 2006.

10. Respondent filed a motion for a delayed appeal which was ultimately granted on December 16, 2006.

11. Respondent filed a petition for appeal on September 26, 2006.

Such conduct by John B. Mann constitutes violations of the following provisions of the Rules of Professional Conduct:

**RULE 1.3 Diligence**

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

C. **VS B Docket No. 07-033-07-0688**  
Complainant: VS B (Charles Lee Shaw, Jr. Appeal)

1. At all times relevant hereto, John B. Mann ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Respondent has been licensed to practice law in the Commonwealth since August 26, 1970.

3. Respondent was counsel of record in the Virginia Court of Appeals in the case of Shaw v. Commonwealth, Record No. 0060-07-2.

4. Respondent was retained to represent Charles Lee Shaw, Jr. on a revocation of suspended sentence hearing in the Circuit Court for the City of Richmond. After Shaw's suspended sentence was revoked, the trial court appointed him counsel for the appeal.

5. Respondent filed a timely notice of appeal.

6. However, Respondent failed to timely file either a transcript or a statement of facts in connection with the appeal

7. On March 13, 2007, the Court of Appeals issued a Rule to Show Cause requiring that Mr. Shaw show cause why the appeal should not be dismissed for failure to timely file transcripts or a statement of facts.

8. Respondent did not respond to the Court of Appeal's Show Cause Order.

9. The Court of Appeals dismissed Mr. Shaw's appeal on April 6, 2007.

10. Respondent states that a review of his file indicates that he did not receive a copy of the Show Cause Order from the Court of Appeals.

11. Respondent filed a motion for a delayed appeal which was ultimately granted on June 6, 2007.

Such conduct by John B. Mann constitutes violations of the following provisions of the Rules of Professional Conduct:

**RULE 1.3 Diligence**

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

**II. DISPOSITION**

Accordingly, it is the determination of the Subcommittee that it hereby publicly admonishes the Respondent, John B. Mann, for the misconduct in the above captioned matters. The terms to be imposed are as follows:

1. That Respondent, within thirty days of the entry of the Public Admonition with Terms, document to the satisfaction of Bar Counsel that Respondent has sufficient docketing controls in which to properly calendar and track deadlines associated with appeals.

In the event of the Respondent's alleged failure to meet one or more of the terms set forth above, the Virginia State Bar shall issue and serve upon the Respondent a Notice of Hearing for Proceedings Upon Certification for Sanctions Determination. The sole factual issue will be whether the Respondent has violated the terms of this Agreed Disposition without legal justification or excuse. All issues concerning the Respondent's compliance with the terms of this Agreed Disposition shall be determined by the Third District Committee, Section III, and Respondent hereby waives any right he may have to have a three judge panel consider imposition

of the alternate disposition. At the hearing, the burden of proof shall be on the Respondent to show timely compliance with the terms, including timely certification of such compliance, by clear and convincing evidence. The Respondent agrees his prior disciplinary record may be disclosed to the Third District Committee, Section III.

This Public Reprimand With Terms shall remain a permanent part of the Respondent's disciplinary record with the Bar.

The Clerk of the Disciplinary System shall impose an administrative fee pursuant to Part 6, Sec. IV, Para. 13.B.8.C of the Rules of the Supreme Court of Virginia.

Third District, Section III, Subcommittee  
of the Virginia State Bar

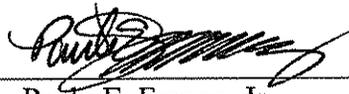
By:



Edward S. Whitlock, III, Chair

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of March, 2008 a true and correct copy of the foregoing Subcommittee Determination was mailed, U.S. Mail, first class postage prepaid, certified and return receipt requested to John B. Mann, Canfield Baer, LLP, 2201 Libbie Avenue, Suite 200, Richmond, Virginia 23230, his last address of record with the Virginia State Bar.



Paulo E. Franco, Jr.  
Assistant Bar Counsel