



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**

1. At all times referenced herein, Respondent Rebecca Louise Marquez (Respondent) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In 2011, Respondent represented Demesio Gomez Sanchez in a criminal matter pending before the Fairfax General District Court.
3. On or about September 20, 2011, represented by Respondent, Mr. Gomez Sanchez pled guilty to a criminal charge. Mr. Sanchez was ordered to pay restitution of \$1,980.00 to the victim on or before October 20, 2011. A restitution review hearing was scheduled for November 17, 2011 before the Fairfax General District Court. Mr. Gomez Sanchez was to appear at the hearing on November 17, 2011 with proof of payment.
4. On September 20, 2011, Mr. Gomez Sanchez tendered to Respondent the restitution payment of \$1,980.00 in cash.
5. On September 20, 2011, Respondent deposited the \$1,980.00 restitution payment in her trust account.
6. Prior to the deposit on September 20, 2011, Respondent only had \$10.00 in her trust account. After the deposit, Respondent had \$1,990.00 in her trust account.
7. On October 7, 2011, Respondent wrote a check in the amount of \$500.00 from her trust account to herself. Respondent advised the bar's investigator that she used the funds to gamble.
8. On October 13, 2011, Respondent wrote two additional checks to herself, both drawn on her trust account, in the amounts of \$750.00 and \$500.00 respectively. Respondent told the bar's investigator that she also used these funds to gamble.
9. On October 17, 2011, Respondent wrote a check in the amount of \$200.00 from her trust account to herself. Respondent told the bar's investigator that she also used these funds to gamble.
10. Respondent made no deposits to her trust account between September 20 and October 17, 2011.

11. Respondent concedes that she gambled the \$1,980.00 which her client, Mr. Sanchez, tendered to her to be paid in restitution.
12. On November 17, 2011, during the restitution review hearing, Respondent was asked to approach the bench. During the bench conference, Respondent advised the Court that Mr. Gomez Sanchez timely tendered the restitution payment to her, but she did not remit the \$1,980.00 or any portion thereof to the victim. Respondent requested a continuance. The hearing was continued.
13. On November 17, 2011, the Court submitted a bar complaint notifying the bar of Respondent's actions.
14. On December 28, 2011, Respondent tendered \$1,980.00 to the victim.
15. On January 27, 2012, Assistant Bar Counsel Renu M. Brennan served on Respondent, via certified mail to Respondent's address of record with the Virginia State Bar, a subpoena *duces tecum* asking that Respondent produce her trust and operating account records from January 1, 2011, to the present, including her cash receipts journals, cash disbursements journals, subsidiary ledgers, bank statements, deposit tickets, and evidence of reconciliations. The subpoena required production on or before February 17, 2012. Respondent's deadline to produce documents was extended to February 23, 2012.
16. Respondent did not comply with the subpoena by February 23, 2012.
17. By letter dated February 29, 2012, the bar requested Respondent comply with the subpoena by March 12, 2012.
18. Respondent did not produce any documents requested by the subpoena by March 12, 2012.
19. On March 14, 2012, the bar issued a Notice of Noncompliance and Request for Interim Suspension of Respondent's license to practice law, until such time as Respondent complied with the January 2012 subpoena. The Notice of Noncompliance noted that Respondent had until March 24, 2012, to petition the Virginia State Bar Disciplinary Board to withhold entry of an interim suspension order pending a hearing.
20. On March 22, 2012, in her first meeting with the Bar's investigator, Respondent only produced (1) two pages of her trust account check ledger covering the time period of September 20, 2011, to February 15, 2012 and (2) her trust account bank statements for the months of September 1, 2011 through March 22, 2012. In this meeting, Respondent advised the bar's investigator that her records were "a little sloppy."

21. By e-mail dated March 22, 2012, the bar's investigator requested Respondent provide the remaining documents requested by the January 2012 subpoena.
22. By letter dated March 26, 2012, Respondent filed a petition to withhold entry of any suspension order and requested a hearing on April 27, 2012.
23. On March 30, 2012, Respondent again met with the bar's investigator, at which time she was again asked to produce the documents requested by the January 2012 subpoena. Respondent provided a trust account subsidiary ledger, which pertained only to the handling of Demesio Gomez Sanchez's funds for the time period of May 22, 2011 through October 17, 2011; a cash and check disbursement journal for the time period of May 22, 2011, to March 2012; a periodic trial balance for the first quarter of 2012; and three deposit tickets dated September 20, 2011; December 23, 2011; and February 15, 2012. Respondent advised the bar's investigator that she did not have any returned or cancelled checks because her mail had been returned to the bank, and she acknowledged that some deposit slips "might be missing."
24. By letter dated April 23, 2012, the Monday of the week before the April 27, 2012, hearing requested by Respondent, Respondent produced deposit slips for January 2011 to the present; her cash disbursement journal from January 1, 2011 to the present; and certain subsidiary ledgers.
25. By letter dated April 23, 2012, Respondent delineated certain items she did not produce in response to the subpoena, stating that the items were not in her possession, custody, and control, "at this time." The items Respondent did not produce included her cash receipts journal from June 24, 2011 to the present, reconciliations from January 1, 2011 to the present, and certain cancelled checks and subsidiary ledgers.
26. Respondent did not appear or produce all requested records at the April 27, 2012, hearing. By interim summary suspension order, Respondent's license to practice law was suspended effective April 27, 2012, due to her failure to comply with the subpoena.
27. In the late afternoon of May 3, 2012, by e-mail, Respondent forwarded partial photographs of certain trust account records to the bar. Hard copies of the documents were received May 7, 2012. The documents produced included a bank statement for April 2011; a returned check; the cash receipt journal for June 26, 2011 through April 9, 2012; and bank statements and a check register purporting to be reconciled as of May 2012. In her letter enclosing the documents, Respondent advised that she had not produced subsidiary sheets for clients listed in the cash receipts journal, with the exception of the previously produced subsidiary ledger. Respondent requested the interim suspension be lifted as she had produced all documents responsive to the January 2012 subpoena which were within her possession, custody, or control. On May 8, 2012, the interim suspension was terminated.

28. Upon information and belief, Respondent did not properly reconcile her records for the time period of January 2011 to January 2012.
29. Upon information and belief Respondent did not maintain the required accounting records from January 2011 to January 2012.

## **II. NATURE OF MISCONDUCT**

Such conduct by Rebecca Louise Marquez constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **RULE 1.15 Safekeeping Property**

(b) Specific Duties. 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 that such person is entitled to receive; and

(5) not disburse funds or use property of a client or third party without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

(3) In the case of funds or property held by a lawyer as a fiduciary, the required books and records shall include an annual summary of all receipts and disbursements and changes in assets comparable in detail to an accounting that would be required of a court supervised fiduciary in the same or similar capacity; including all source documents sufficient to substantiate the annual summary.

(4) All records subject to this Rule shall be preserved for at least five calendar years after termination of the representation or fiduciary responsibility.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(3) Reconciliations.

(i) At least quarterly reconciliation shall be made that reflects the trust account balance for each client, person or other entity.

(ii) A monthly reconciliation shall be made of the cash balance that is derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance.

(iii) At least quarterly, a reconciliation shall be made that reconciles the cash balance from (d)(3)(ii) above and the subsidiary ledger balance from (d)(3)(i).

(iv) Reconciliations must be approved by a lawyer in the law firm.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

#### **RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

### III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition for a Five Year Suspension, the Disciplinary Board **ORDERS** that Respondent's license to practice law in the Commonwealth of Virginia is suspended for a period of five years effective August 29, 2012. This Five Year Suspension shall be independent of the indefinite suspension for impairment set forth in the Consent Order for Impairment Suspension entered August 29, 2012 in VSB Docket No. 13-000-093039, and agreed to by the Respondent and the Virginia State Bar.

It is further ORDERED that 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 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 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, 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 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

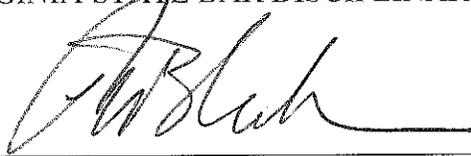
It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send an attested copy of this order by Certified Mail to Rebecca Louise Marquez at her last address of record with the Virginia State Bar, 1110 N. Kenilworth St #3, Arlington, VA 22205, and by regular mail to Rebecca Louise Marquez, 3025 Ingalls Street, Wheat Ridge, CO 80214, and, via hand delivery, to Assistant Bar Counsel, Renu M. Brennan, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219.

Tracy J. Stroh with Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227, telephone: (804) 730-1222, was the court reporter for the hearing and transcribed the proceedings.

ENTERED: August 30, 2012

VIRGINIA STATE BAR DISCIPLINARY BOARD

By:   
Paul M. Black, Acting Chair