

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
DOUGLAS EDWARD MATACONIS**

**VSB DOCKET NO. 13-053-094175**

**AGREED DISPOSITION MEMORANDUM ORDER**

On March 14, 2014, this matter was heard by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by the Rules of the Supreme Court of Virginia. The panel consisted of Richard J. Colten, Acting Chair, Melissa W. Robinson, Samuel R. Walker, Lisa A. Wilson, and Anderson Wade Douthat, IV, Lay Person. The Virginia State Bar was represented by Prescott L. Prince, Assistant Bar Counsel. Respondent was present and was not represented by counsel. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter, Terry S. Griffith, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, the Certification, Respondent's Disciplinary Record and any responsive pleadings of counsel,

It is **ORDERED** that the Virginia State Bar Disciplinary Board accepts the Amended Agreed Disposition and the Respondent shall receive a nine (9) month suspension as set forth in the Amended Agreed Disposition, which is attached to this Memorandum Order.

It is further **ORDERED** that the sanction is effective March 14, 2014.

It is further **ORDERED** that the Respondent must comply with the requirements of Part Six, § IV, ¶ 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 nine month 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. Respondent shall give such notice within 14 days of the effective date of the nine month suspension, and make such arrangements as are required herein within 45 days of the effective date of the nine month suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the nine month suspension that such notices have been timely given and such arrangements made for the disposition of matters.

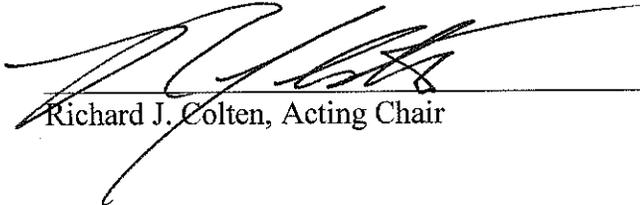
It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the nine month suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for a hearing before a three-judge court.

The Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9 E. of the Rules.

A copy teste of this Order shall be mailed by Certified Mail to Douglas Edward Mataconis, Respondent, at his last address of record with the Virginia State Bar at 505 Highland Towne Lane, Warrenton, VA 20186, and hand-delivered to Prescott L. Prince, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED THIS 26 DAY OF March, 2014

VIRGINIA STATE BAR DISCIPLINARY BOARD



Richard J. Colten, Acting Chair

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF DOUGLAS EDWARD MATACONIS  
VSB Docket No. 13-053-094175

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MAR 21 2014  
VIRGINIA STATE BAR

AMENDED AGREED DISPOSITION

(Suspension for Nine Months)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H., the Virginia State Bar by Prescott L. Prince, Assistant Bar Counsel, and the Respondent, and Douglas Edward Mataconis, hereby enter into the following Agreed Disposition arising out of the referenced matter.

FINDINGS OF FACT

1. At all times relevant to the conduct set forth herein, Douglas Edward Mataconis ("Respondent", or "Mr. Mataconis") was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In 2010, the Complainant, Janet Doyle met with Douglas Mataconis to discuss his representation of Ms. Doyle and her husband regarding their concerns regarding the building of a large residential housing project close to the Doyle's residence.
3. The Doyles contended that a residential expansion project known as the "Parkway West Project" included the altering of the then existing topographic setting of their property and in the surrounding area in a manner that impeded proper water-flow and egress through their property and the surrounding area. The Doyles further contended that this altering of the topographic setting allowed dangerous sediments and

contaminants to accumulate in and around their property. The Doyles further contended that they have both suffered major medical issues due to the excessive levels of harmful chemicals in their water supply caused by the expansion project.

4. Ms. Doyle specifically requested of Mr. Mataconis that he obtain an injunction to stop the construction project and, further that he file a lawsuit for damages suffered as the result of the construction.

5. Mr. Mataconis agreed to represent Ms. Doyle and her husband and agreed to proceed with filing the necessary paperwork seeking an injunction and preserving their right to file a lawsuit.

6. Mr. Mataconis agreed to take the case on a "contingency basis" whereby he would retain 1/3 of all monies collected in their case.

7. Mr. Mataconis did not obtain a written fee agreement from Ms. Doyle.

8. Ms. Doyle herself sent numerous e-mails to Prince William County officials and other individuals associated with the "Parkway West Project" in an attempt to obtain information about the project and in an attempt to halt the project. Ms. Doyle provided Mr. Mataconis with e-mail copies of all or nearly all of her communication from July 2010 forward. Commencing in or about July 2010, Ms. Doyle also sent e-mails directly to Mr. Mataconis regarding information she had obtained regarding the project and the effect that the construction of the Parkway West Project was having on her and her husband. On no occasion did Mr. Mataconis indicate to Ms. Doyle that he was not her attorney for matters associated with her attempts to halt the Parkway West Project.

9. On or about 2 August 2010, Mr. Mataconis sent an e-mail to Ms. Doyle recommending that she obtain ground and surface water studies as evidence that there

was immediate and permanent damage being done to her property and requested that she contact his office to discuss plans for moving forward.

10. On or about 6 December 2010, Ms. Doyle sent an e-mail to Mr. Mataconis informing Mr. Mataconis that she had contacted a hydrologist who might be able to provide assistance in the matter and requested that Mr. Mataconis contact him. Mr. Mataconis did not respond to this request and provided no indication to Ms. Doyle as to whether he had ever attempted to contact the hydrologist.

11. On or about 2 June 2011, Ms. Doyle sent an e-mail to Mr. Mataconis in which she specifically requested that he serve parties whom she believed to be potential parties in any lawsuit related to the "Parkway West Project" with a Notice of Intent to File Suit pursuant to Section 505 of the Clean Water Act. In her e-mail, Ms. Doyle again detailed the damage she and her husband were suffering as the result of the "Parkway West Project" construction and further detailed why she believed that recourse was possible under the Clean Water Act.

12. On or about 17 August 2011, Ms. Doyle sent an e-mail to Mr. Mataconis that included, *inter alia*, a list of citations which she believed could be used in the aforementioned Notice of Intent to File Suit. Ms. Doyle also included in the e-mail elements that she believed were required to be included in the Notice of Intent to File Suit. Ms. Doyle further requested a meeting with Mr. Mataconis.

13. Mr. Mataconis responded to Ms. Doyle's e-mail communication on or about 16 November 2011, by means of an e-mail to Ms. Doyle in which he stated that he hoped to have a draft letter for her to review by the end of the week.

14. On or about 6 December 2011, Mr. Mataconis sent Ms. Doyle an e-mail acknowledging that he had not yet prepared the Notice of Intent to File letter, but that he would "follow up" with her (Ms. Doyle) by the end of the week.

15. On multiple occasions thereafter, through 27 November 2012, Ms. Doyle sent Mr. Mataconis e-mail requests requesting updates on the status of the aforementioned letter and urging him to complete the letter in order that the matter could be moved forward.

16. Mr. Doyle either did not respond to these requests for action or responded indicating that he had been unable to get to the matter, but that he would be able to take action on behalf of Ms. Doyle shortly thereafter. On no occasion did Mr. Mataconis indicate to Ms. Doyle that he was unable or unwilling to take action on her behalf.

17. On no occasion did Mr. Mataconis ever provide Ms. Doyle with a completed or draft letter as promised, nor did he provide her with any substantive assistance in her effort to halt the Parkway West Project.

18. On or about 14 December 2012, Ms. Doyle filed a Complaint with the Virginia State Bar. On or about 19 December 2012, in furtherance of the Complaint filed by Ms. Doyle, Assistant Bar Counsel Prescott L. Prince sent a letter to Mr. Mataconis at P.O. Box 658, Bristow, VA 20136, that being his last address of record with the Virginia State Bar, providing him with a copy of the Complaint in this matter. The letter advised Mr. Mataconis, *inter alia*, that pursuant to Rule of Professional Conduct 8.1(c), he had a duty to comply with the Bar's lawful demands for information and further advised him that the letter constituted a demand that he submit a written answer to the Complaint within 21 days of the letter.

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19. Mr. Mataconis did not respond to the letter.

20. Incident to an investigation by the Virginia State Bar, Mr. Mataconis was interviewed in person by Bar Investigator Edward Bosak. In the course of the interview, Mr. Mataconis acknowledged, *inter alia*, that he had received the letter from the Virginia State Bar advising him of the existence of the Complaint, and that he had not responded to it. He further acknowledged that although he had promised assistance to Ms. Doyle, including writing a letter to the Prince William County Board of Supervisors, he never finished the letter.

## II. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **Rule 1.1 Competence**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

### **Rule 1.2 Scope of Representation**

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

### **Rule 1.3 Diligence**

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

(b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

**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**

- (b) The lawyer's fee shall be adequately explained to the client. When the lawyer has not regularly represented the client, the amount, basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.
- (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 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[.]

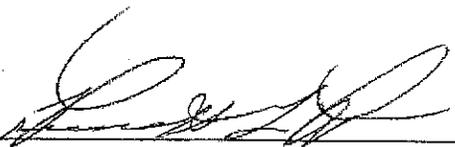
**PROPOSED DISPOSITION (NINE MONTH SUSPENSION)**

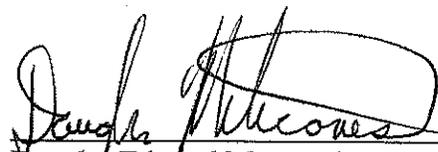
Accordingly, Assistant Bar Counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of SUSPENSION for a period of NINE (9) MONTHS as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. If a panel of the Disciplinary Board accepts this Agreed Disposition, Respondent agrees that it is final and non-appealable.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee.

Pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-30.B, the Respondent understands that his prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

THE VIRGINIA STATE BAR

By:   
\_\_\_\_\_  
Prescott L. Prince  
Assistant Bar Counsel

  
\_\_\_\_\_  
Douglas Edward Mataconis, *pro se*

