

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF

MIKE MEIER

VS **DOCKET NO. 14-042-099357**

AGREED DISPOSITION MEMORANDUM ORDER

On November 29, 2016 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 John A. C. Keith, 2nd Vice Chair; Richard J. Colten; Jeffrey L. Marks; Bretta Lewis and Nancy L. Bloom. The Virginia State Bar was represented by Kathleen M. Uston. Respondent Mike Meier was present and was represented by Sae Woong Lee. 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 Jennifer Hairfield, 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 Answer, Respondent's Disciplinary Record, the Arguments of the Parties, and after due deliberation,

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition and the Respondent shall receive a Suspension for thirty (30) days, as set forth in the Agreed Disposition,

which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective November 29, 2016.

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 of the Revocation or Suspension of his or her license to practice law in the Commonwealth of Virginia, to all clients for whom he or 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 his or her care in conformity with the wishes of his or her clients. The Respondent shall give such notice within 14 days of the effective date of the Revocation or Suspension, and make such arrangements as are required herein within 45 days of the effective date of the Revocation or Suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the Revocation or 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 Revocation or Suspension, he or she shall submit an affidavit to that effect within 60 days of the effective date of the Revocation or Suspension 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, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

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, certified mail, return receipt requested, to the Respondent, Mike Meier, at his last address of record with the Virginia State Bar, Mike Meier, Esq., Lee Law Firm, 11325 Random Hills Rd., Suite 360, Fairfax, VA 22030, with a copy to: Kathleen M. Uston, Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

ENTERED THIS 29th DAY OF NOVEMBER, 2016
VIRGINIA STATE BAR DISCIPLINARY BOARD

John A. C. Keith

Digitally signed by John A. C. Keith
DN: cn=John A. C. Keith, o=Users, ou=DN, email=jkeith@bklawva.com,
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John A. C. Keith, 2nd Vice Chair

Nov 17, 2016

VSB CLERK'S OFFICE

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BARIN THE MATTER OF
MIKE MEIER

VSB Docket No. 14-042-099357

AGREED DISPOSITION
(Suspension)

Pursuant to the Rules of the Virginia Supreme Court Rules of Court Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Kathleen Maureen Uston, Assistant Bar Counsel and Mike Meier, Respondent, and Sae Woong Lee, Respondent's counsel, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. At all relevant times, Respondent was licensed to practice law in the Commonwealth of Virginia.
 1. The instant matter was initiated following receipt by the Virginia State Bar (the "Bar") of an Order entered by the United States District Court for the District of Nevada (hereinafter the "Order") awarding attorneys' fees in the amount of \$37,415.00 against Respondent and his local counsel as a result of Respondent's conduct in pursuing a sexual harassment lawsuit in Las Vegas, Nevada.¹ Since Respondent is not licensed in Nevada, he served as *pro hac vice* Plaintiffs' counsel in the underlying case. The Order sanctioned Respondent and his local counsel, Sharon Nelson, Esquire, due to what the court characterized as reckless and bad faith behavior arising out of their filing of an Opposition to defendants' Motion to Dismiss and a Motion for Remand.
 2. The underlying matter was a sexual harassment suit filed by Respondent and Ms. Nelson on behalf of their clients, Oliver and Beatrice Preiss.² The suit alleged that defendant, Roy Horn, a Las Vegas entertainer, sexually harassed Mr. Preiss who was his assistant at the time. The suit also alleged that Mr. Horn terminated Mr. Preiss when he refused to accede to Mr. Horn's advances. Respondent and Ms. Nelson

¹ Respondent appealed this Order to the 9th Circuit Court of Appeals which affirmed.

² As discussed in more detail below, additional plaintiffs were added to a subsequent state court suit filed by Respondent and Ms. Nelson following dismissal of the federal action.

included a claim of Negligent Infliction of Emotional Distress (NIED) on behalf of Mrs. Preiss claiming that her mere viewing of a video of the alleged sexual harassment and assault on her husband, after the fact, caused her emotional distress. Respondent and Ms. Nelson also filed a Title VII employment claim against an entity that the court found had never employed Mr. Preiss.

3. Respondent and Ms. Nelson initially filed suit against Mr. Horn in Nevada State court on September 17, 2010. On October 15, 2010, Mr. Horn's attorneys removed the case to the United States District Court for the District of Nevada. On October 22, 2010, Mr. Horn's attorneys filed a Motion to Dismiss the case and on November 8, 2011, Respondent and Ms. Nelson filed their Opposition to the Motion to Dismiss. Both Ms. Nelson and Respondent agree that Respondent prepared the preliminary draft of the opposition to the Motion to Dismiss. On March 17, 2011, the Honorable Roger L. Hunt, U.S. District Court Judge, granted Mr. Horn's Motion to Dismiss.
4. Thereafter, on April 8, 2011, Mr. Horn's attorneys filed a Motion for Attorneys' Fees to which Respondent and Ms. Nelson responded on April 22, 2011. On September 20, 2011, Judge Hunt granted Mr. Horn's Motion for Attorneys' Fees, sanctioning Respondent and Ms. Nelson as detailed in Paragraph 2, above.
5. In the Order, Judge Hunt found specifically that Respondent's actions in opposing Defendants' Motion to Dismiss, ". . . wasted this Court's and Defendants' time and resources . . ." since Respondent's clients' claims, ". . . were not simply without merit but blatantly and undeniably so." The court found that in order to support his clients' contentions Respondent, ". . . had to twist their words and attempt to twist the law in order to defend the motion, and thereby violated their duty of candor towards the court . . ."
6. The court also sanctioned Respondent for arguments advanced by him on behalf of Mrs. Preiss in support of the NIED claim. The court found that Respondent's defense of her, ". . . was absurd," and Respondent's willingness to defend Mrs. Preiss against the Motion to Dismiss, ". . . demonstrate[ed] Plaintiffs' willingness to ignore the law and prolong these proceedings with baseless claims and frivolous arguments. Rather than making this ridiculous and nonsensical argument, Plaintiffs should have conceded this claim in their response and not required Defendants to continue defending against it."
7. As to Respondent's opposition to the Motion to Dismiss Mr. Preiss' employment claim against an entity that had never employed him, the court found that, "Any competent attorney practicing employment law knows that an employment claim may only be brought against a plaintiff's employer." Judge Hunt found that this action by Respondent, ". . . needlessly, unreasonably, and vexatiously multiplied the proceedings in bad faith."
8. Respondent and Ms. Nelson filed a Motion to Remand on February 14, 2011, prior to the court's ruling on Mr. Horn's Motion to Dismiss. This was done in a vain attempt to deprive the court of jurisdiction to rule upon Mr. Horn's motion (the Motion to

Dismiss). In its Order, the court determined that the Motion to Remand, “. . . was based on patent misinterpretations of fact or, worse, misrepresentations of the law.” The court characterized Respondent’s arguments as “. . . knowingly frivolous as they do not even contend that they were unaware of controlling case law.” The court found Respondent’s arguments on this issue to be, at best, “. . . frivolous and recklessly unfounded.”

9. In its Order, the court articulated that sanctions could only be assessed if Respondent acted in bad faith or acted “. . . with knowing recklessness or argues a [non]meritorious (*sic*) claim for the purpose of harassing the opposition.” The court found that this standard had been met holding, “Because of the baselessness of Plaintiff’s Opposition to the NIED and Title VII claims and the motion to remand, and because of the subjective bad faith demonstrated by Plaintiff’s arguments and method of litigating this case, the Court awards attorneys’ fee to the Defendants.”
10. Footnote 2 of the Order specified the “method of litigating the case” which the court found offensive: “The Court refers to Plaintiffs use of thinly veiled threats . . . use of tabloid media pressure to pressure Defendants . . . dishonesty with this Court . . . Plaintiffs continued arguments that they managed to deprive this Court of jurisdiction over this case, and other conduct as described in Defendants’ motion and accompanying exhibits.”
11. Respondent denied making any misstatements of fact or law to the court in the Opposition to the Motion to Dismiss, and denied any wrongdoing in the filing of the Motion for Remand. In addition, Respondent falsely claimed in response to the bar complaint filed with the Virginia State Bar (the “Bar”) that all responsibility for the sanctioned conduct rested with Ms. Nelson.
12. In fact, the “thinly veiled threats” were made by Respondent and Respondent alone long before Ms. Nelson’s involvement in the case. Likewise, the “use of tabloid media pressure” referred to an interview Respondent set up for his client, Mr. Preiss, with the National Enquirer in which Respondent was quoted extensively and his picture prominently displayed. This interview took place before Respondent and Ms. Nelson had even met.³
13. Respondent also falsely advised the Bar that it was Ms. Nelson who, of her own accord, inserted certain language into the Opposition to the Motion to Dismiss, language which Judge Hunt specifically found to constitute affirmative misrepresentation. In the Motion to Dismiss, Mr. Horn’s attorneys noted that, “Plaintiff’s principal strategy from the outset has been to make this litigation as expensive and as publicly embarrassing as possible for internationally renowned

³ In his sworn testimony before the District Committee, Respondent first claimed that he tried to dissuade Mr. Preiss from going to the National Enquirer with his allegations against Mr. Horn. Under further questioning, however, Respondent admitted that it was he who scheduled the date and time for the interview. Respondent also admitted that he accompanied Mr. Preiss to Florida for the interview. This took place within only a few weeks of Mr. Horn’s refusal to voluntarily agree to Respondent’s demand for payment of \$500,000.00, discussed in more detail in Paragraphs 14-16, below.

entertainers Roy Horn (“Roy”) and Siegfried Fischbacher (“Siegfried”). Before plaintiffs brought this suit, plaintiffs’ counsel tellingly demanded \$500,000 from Roy Horn personally – ten times the maximum statutory damages under Title VII – to resolve the matter and keep it ‘confidential’. Mike Meier later increased that demand to ‘seven figures.’”

14. Respondent does not deny that he prepared the first draft of the Opposition to the Motion to Dismiss which falsely asserts, “Defendants’ incessantly alleged improper ‘off the record’ conduct by Plaintiffs’ counsel such as making outrageous settlement demands. In fact, no settlement amount was ever discussed.” (emphasis added).
15. In his response to the Charges of Misconduct filed below, Respondent blamed Ms. Nelson for the inclusion of this misrepresentation in a later draft of a document that he claimed to have neither seen nor approved. Respondent photocopied an excerpt of the draft of the Opposition he admitted having prepared and placed it next to a copy of the version as filed, claiming, “It shows that my draft . . . DOES NOT CONTAIN that quote albeit inaccurate statement. . .” (emphasis in the original). He further represented to the Bar and the District Committee that, “My draft that I sent to Sharon did not contain no such [*sic*] ‘do not discuss’ language – and compare it to the final version edited unilaterally and filed by Sharon, containing for reasons unknown to me, that ‘do not discuss’ language.”
16. Respondent doubled down on his misrepresentations to the Bar and the District Committee claiming, “Such statement was not in the draft I provided to Sharon Nelson. (I provided the electronic file to the investigator in this case.) That statement was inserted by Sharon Nelson (I presume it was unintentional) before she filed it.”
17. During the course of the investigation of this case, the Bar obtained metadata from the draft of the Opposition to the Motion Dismiss prepared by Respondent. This draft, in fact, did contain the offending language making clear that it was inserted in the draft by Respondent himself. It was also apparent from an examination of the draft prepared by Respondent that little revision was made to Respondent’s draft prior to its filing by Ms. Nelson, contrary to Respondent’s representations to the Bar.
18. Respondent made additional misrepresentations to the Bar during the course of the investigation of this matter, and to the District Committee below both in pleadings and during his testimony. Respondent’s misrepresentations included, *inter alia*, that: he had little contact with the clients in the case, Oliver and Beatrice Preiss; that he had no involvement in contacting the National Enquirer concerning Mr. Preiss’s case; that Ms. Nelson was lead counsel in the case and made all strategic decisions; that he had no responsibility for the inclusion of the NIED claim; and that he had minimal involvement in the prosecution of Mr. Preiss’s case in either federal or state court.
19. Respondent also falsely advised both the Bar and the District Committee in pleadings and during his testimony that he had no involvement in the representation of other plaintiffs, in addition to Mr. Preiss, in the state court litigation pursued after dismissal of the federal case referenced above.⁴

20. In the course of Ms. Nelson's *de bene esse* deposition presented to the District Committee below, she disputed these assertions testifying that at all times Respondent was actively involved in all aspects of the case and that she relied upon him for factual assertions made in pleadings during the course of the case. Ms. Nelson testified further that, in her capacity as local counsel in the case, she and Respondent worked together to devise strategy, make decisions about how to address defense tactics, and worked cooperatively in the preparation of all pleadings filed in both the federal and state courts. Ms. Nelson also stated that it was not until she reviewed Mr. Horn's Motion to Dismiss and Judge Hunt's Order that it became clear to her that Respondent had not been forthcoming with her on key issues.
21. As noted above, Respondent and Ms. Nelson appealed Judge Hunt's Order to the 9th Circuit Court of Appeals. During the pendency of this ultimately unsuccessful appeal, Mr. Horn's attorneys initiated collection proceedings against Respondent and Ms. Nelson in order to satisfy the sanction assessed against them by Judge Horn. Respondent and Ms. Nelson communicated with one another concerning these collection efforts and Respondent, in an effort to avoid having to pay the sanction himself suggested the same subterfuge to Ms. Nelson that he perpetuated with the Bar and the District Committee.
22. Specifically, Respondent suggested to Ms. Nelson, "I could argue that I don't have anything to do with this, because you signed the pleadings. Dieter said that strictly speaking you are the attorney responsible for those filings and the resulting motions. . . Thus, I could say that I am not responsible, and you said that eventually you might file for BK [bankruptcy] for other reasons anyways. That would unload the entire matter."
23. When Ms. Nelson refused to go along with this subterfuge, Respondent turned on her, filing a Motion to Stay enforcement of the judgment with the federal court wherein he made patently false allegations concerning Ms. Nelson's actions. Even upon receiving affirmative evidence that these representations were false, Respondent neither withdrew this pleading nor sought to clarify its contents with the court. Further, despite having evidence that his assertions were false, he repeated them to the Bar in his response to the Charges issued below.
24. Respondent attempted to perpetuate his subterfuge that he didn't have "anything to do with this" in correspondence and pleadings submitted to the Bar and to the District Committee as well as during his testimony at the District Committee trial.

II. NATURE OF MISCONDUCT

⁴ Ultimately, both Respondent and Ms. Nelson withdrew from the state court matter and it was taken over by successor counsel who obtained an agreed upon resolution of the matter in Mr. Preiss's favor.

Such conduct by the 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 3.1 Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

RULE 3.3 Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal; or

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

RULE 3.4 Fairness to Opposing Party and Counsel

A lawyer shall not:

(j) File a suit . . . assert a position, conduct a defense . . . or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 4.1 Truthfulness In Statements To Others

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of fact or law[.]

RULE 4.4 Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that have no purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

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:

- (a) knowingly make a false statement of material fact;
- (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter; or
- (d) obstruct a lawful investigation by an admissions or disciplinary authority.

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and the Respondent tender to the Disciplinary Board for its approval the agreed disposition of a Suspension for thirty (30) days as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board.

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

THE VIRGINIA STATE BAR

By: _____
Kathleen Maureen Uston
Assistant Bar Counsel



Mike Meier, Respondent



Sae Woong Lee, Respondent's Counsel

Nov 17, 2016

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THE VIRGINIA STATE BAR

By: 

Kathleen Maureen Uston
Assistant Bar Counsel



Mike Meier, Respondent



Sae Woong Lee, Respondent's Counsel