

**VIRGINIA:**

**IN THE CIRCUIT COURT OF THE CITY OF RICHMOND**

**received**

**VIRGINIA STATE BAR EX REL  
THIRD DISTRICT COMMITTEE**

DEC 11 2006

**Complainant,**

**VSB CLERK'S OFFICE**

**v.**

**Case No. CL06-3627-1**

**MICHAEL MORCHOWER**

**Respondent.**

**DETERMINATION OF THREE JUDGE PANEL  
(ADMONITION WITHOUT TERMS)**

The Complaint against Respondent was certified to the Virginia State Bar Disciplinary Board alleging violations of the Virginia Rules of Professional Conduct ("RPC") 1.6(a), 1.8(b), 1.9(c) and 3.6 by a subcommittee of the Third District Committee, Section I on April 6, 2006. Respondent filed an answer to the Certification and requested that the matter be heard by a three judge panel pursuant to his right under Va. Code Ann. § 54.1-3935. In response to that request, the Virginia Supreme Court designated the Honorable Pamela S. Baskervill, Chief Judge Designate, the Honorable Walter J. Ford, and the Honorable H. Thomas Padrick, Jr. to hear the case. The case was initially set to be heard on September 20, 2006, but was continued to November 3, 2006 upon a joint motion due to the unavailability of witness Learned Barry. Prior to trial, the Bar advised Respondent that it did not intend to pursue charges in the Certification pursuant to RPC 3.6.

On October 31, 2006, by agreement, the Honorable Pamela S. Baskervill heard argument on (1) the Motion in Limine of the Bar to exclude proffered expert testimony and certain exhibits, and (2) Respondent's motion for leave to amend his answer to the Certification. The Court granted the Bar's motion to exclude the expert testimony and denied the motion to exclude the exhibits. The motion to amend the answer to the Certification was granted, and the Court received a signed Amended Answer to the Certification in open court at trial of this matter. The Court reserved all objections to its rulings.

On November 3, 2006, this matter was tried before a three judge panel pursuant to Virginia Code § 54.1-3935 and Part 6, Section IV, Paragraph 13 of the Rules of the Virginia Supreme Court. Presiding were the Honorable Pamela S. Baskervill, Chief Judge Designate, the Honorable Walter J. Ford, and the Honorable H. Thomas Padrick, Jr., presiding. The Virginia State Bar was represented by Assistant Bar Counsel Paulo E. Franco, Jr. and Assistant Bar Counsel Paul D. Georgiadis. The Respondent was present and represented by Murray J. Janus, Esquire and Russell V. Palmore, Jr. Esquire.

At the conclusion of the Bar's case in chief, the Respondent moved to strike the bar's case. The Court denied said motion. The Respondent then put on its case in chief and rested, and thereafter the parties each made closing argument. Prior to the Court concluding its deliberation on misconduct, the parties announced to the Court that they had reached a resolution of the matter by way of an agreed disposition of an admonition without terms. The parties disclosed their accord for an agreed upon disposition in open court.

Pursuant to an Agreed Disposition of the parties, Virginia Code Annotated § 54.1-3935 and Part 6, Section IV, Paragraph 13 of the Rules of the Virginia Supreme Court the Respondent, Michael Morchower, is hereby served with the following Public Admonition, without terms:

### **I. FINDINGS OF FACT**

1. At all times material to these allegations, the Respondent, Michael Morchower, hereinafter "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about October 20, 2005, Janet Pelasara retained Respondent to represent her interests in connection with the investigation and prosecution of the homicide of Pelasara's daughter Taylor Behl as well as assisting Pelasara with the media.
3. On or about October 26, 2005, Respondent met with a Deputy Commonwealth's Attorney who agreed to meet with Respondent because he represented the victim's mother.
4. During said meeting, the Deputy Commonwealth's Attorney disclosed to Respondent specific information about the Deputy's analysis of the Commonwealth's strengths and weaknesses in its case against suspect Ben Fawley.
5. Prior information about the case that was in the public domain and that Respondent had learned had been confined to facts of the police investigation and independent legal analysis, and had not included the prosecution's own analysis.
6. On or about October 31, 2005, Ms. Pelasara terminated Respondent's representation.
7. On November 1 and 2 of 2005, Respondent sent letters and emails to various media advising that he had been monitoring the anticipated prosecution of Mr. Fawley on Ms. Pelasara's behalf, that he was no longer serving in that capacity, and that he would be available for independent analysis of Mr. Fawley's prosecution.
8. As a result of said communication, Respondent was contacted by and gave an interview to the Washington Times . In the interview, Respondent disclosed information received in his October 26, 2005 meeting with the Deputy Commonwealth's Attorney.

9. On November 3, 2005, the Washington Times published an article containing comments from said interview.
10. At no time had Respondent requested Ms. Pelasara's consent to disclose said information nor did Pelasara ever grant such consent to do so.
11. On November 3, 2005, Ms. Pelasara through other counsel telephoned and wrote Respondent and requested that Respondent not speak to the media regarding the case.
12. After Ms. Pelasara filed the instant complaint with the Virginia State Bar, Respondent agreed on December 14, 2005, that he would not grant any media interviews or discuss anything pertaining to the Taylor Behl murder investigation with anyone.

## II. NATURE OF MISCONDUCT

The Court finds that such conduct on the part of Respondent constitutes misconduct in violation of the following Rules of the Virginia Rules of Professional Conduct :

### **RULE 1.6 Confidentiality of Information**

- (a) A lawyer shall not reveal information protected by the attorney-client privilege under applicable law or other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b) and (c).

### **RULE 1.8 Conflict of Interest: Prohibited Transactions**

- (b) A lawyer shall not use information relating to representation of a client for the advantage of the lawyer or of a third person or to the disadvantage of the client unless the client consents after consultation, except as permitted or required by Rule 1.6 or Rule 3.3.

The Virginia State Bar and the Respondent have stipulated that while the Subcommittee certified violations of Rules 1.9(c) and 3.6(a), the foregoing agreed findings of fact would not result in findings of violations of said Rule.

**III. ADMONITION WITHOUT TERMS**

Accordingly, the Court hereby imposes an **ADMONITION WITHOUT TERMS**, on Respondent Michael Morchower, and he is so admonished.

The Clerk of the Disciplinary System shall assess costs.

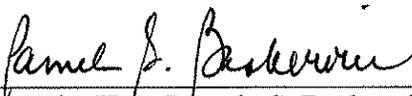
The proceedings of October 31, 2006 and November 3, 2006 were transcribed by Donna Chandler of Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227.

In accordance with the stipulation of counsel for the Bar and for the Respondent, the parties hereby waive endorsement of all three members of the three judge panel and accept endorsement by the Chief Judge Designate on behalf of the three judge panel.

Wherefore, having considered and disposed of all of the issues before it, the Court doth order and decree this matter is dismissed and hereby stricken from the Court's docket.

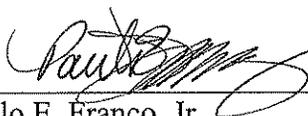
Let the Clerk of the Court send a copy *teste* to all Counsel of Record.

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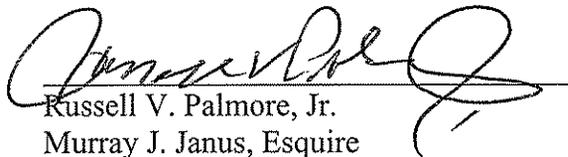


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The Hon. Pamela S. Baskervill  
Chief Judge Designate

**WE ASK FOR THIS:**



\_\_\_\_\_  
Paulo E. Franco, Jr.  
Paul D. Georgiadis  
For the Virginia State Bar



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Russell V. Palmore, Jr.  
Murray J. Janus, Esquire  
For the Respondent, Michael Morchower