

**VIRGINIA :**

**BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR**

**IN THE MATTERS OF  
RAUL NOVO**

**VS B Docket Nos. 08-031-074033 and 08-031-074806**

**MEMORANDUM ORDER**

This matter came on to be heard on May 8, 2009 by the Disciplinary Board of the Virginia State Bar (the Board) by teleconference upon an Agreed Disposition between the parties, which was presented to a panel of the Board consisting of Nancy C. Dickenson, Gordon Peyton, John C. Forrester, Stephen A. Wannall, lay person and Robert E. Eicher, Jr., Chair, presiding (the Panel).

Paulo E. Franco, Jr., Assistant Bar Counsel, participated by phone as counsel for the Virginia State Bar, and Raul Novo, Respondent and his counsel, Craig S. Cooley, also participated by phone.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Panel. The court reporter for the proceeding was Tracey J. Johnson, Chandler & Halasz, P.O.Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Panel unanimously accepted the Agreed Disposition.

The Disciplinary Board finds the following facts by clear and convincing evidence:

**VSb DOCKET NO. 08-031-074033**  
**Complainant: Katogiritis**

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

1. At all times relevant, Respondent was an attorney admitted to the practice of law in the Commonwealth of Virginia.
2. Respondent was admitted to the practice of law in the Commonwealth of Virginia on April 29, 1997.
3. Sometime in April of 2004, Ms. Sandra Eve was involved in an automobile accident in which she was injured.
4. Thereafter, she retained Respondent to represent her interests in a personal injury suit against the other driver in the accident, Jarred Pleasants.
5. Respondent filed suit against Mr. Pleasants on April 12, 2004 in the Circuit Court for the City of Richmond, Virginia. Mr. Pleasants' insurance company assigned Mark Nanavati, Esquire to represent him.
6. Respondent failed to obtain proper service on Mr. Pleasants. After a year had passed, Mr. Nanavati filed a Motion to Quash Service of Process.
7. On May 6, 2005, Mr. Nanavati informed Respondent of his position and provided him a copy of the Motion to Quash.
8. Mr. Nanavati did not receive a response.
9. Sometime in July of 2005, after Mr. Nanavati filed his Memorandum in Support of Motion to Quash, Respondent contacted Mr. Nanavati and informed him that he would be nonsuited the case.

10. Respondent filed a motion to nonsuit and the court entered an order granting nonsuit on September 19, 2005. Respondent never refiled suit in the case.

11. After Respondent nonsuited the case, he did not provide Ms. Eve a reason for doing so.

12. Subsequent to the nonsuit, Ms. Eve and Respondent engaged in correspondence concerning the status of the case.

13. On February 27, 2006, Respondent wrote to Ms. Eve and advised her he would be sending a copy of the re-filing of her lawsuit. He also advised Ms. Eve that the insurance company's last offer to settle was \$6,000.00.

14. On July 13, 2006, Respondent emailed Ms. Eve and advised her he would be setting her case for trial on the August docket call. During his interview with the Virginia State Bar's investigator, Respondent admitted that he wrote the email simply to cover his tracks.

15. On November 21, 2006, Respondent wrote to Ms. Eve and advised her that her trial date was April 26, 2007 at 9:00 a.m. He further advised her that he was hopeful he could reach a negotiated settlement with Mr. Pleasants' insurance company. During his interview with the Virginia State Bar's investigator, Respondent admitted that the information in his email was false and that he sent it to put her off.

16. On March 25, 2007, Respondent emailed Ms. Eve and stated that he had some helpful conversations with Mr. Pleasants' attorney. During his interview with the Virginia State Bar's investigator, Respondent admitted that the email was false and that he had never had such a discussion with Mr. Nanavati.

17. On April 17, 2007, Respondent emailed Ms. Eve in response to an email she sent enclosing pictures of her scar. Respondent advised Ms. Eve that the photos caused the lawyer on the other side to "freak out" and request a continuance. During his interview with the Virginia State Bar's investigator, Respondent admitted that the email was false.

18. On April 24, 2007, Respondent emailed Ms. Eve and advised that the defendant's lawyer was consulting with the insurance carrier to determine what kind of offer could be made. During his interview with the Virginia State Bar's investigator, Respondent admitted that the email was false.

19. On July 17, 2007, Respondent sent Ms. Eve an email advising her that trial had been scheduled for October 18, 2007 at 10:00 a.m. At the time that Respondent wrote that email, he knew that it was false.

20. Sometime in October of 2007, before the alleged trial date, Ms. Eve called

Respondent and advised him that she was broke. Ms. Eve asked if the insurance company would settle for \$30,000.00 and he advised her that he would look into it.

21. A few days later, Respondent called Ms. Eve and advised her that the insurance company had settled the case under which she would receive \$30,000.00 and have her medical bills and his fee paid.

22. Shortly after that phone conversation, Respondent sent Ms. Eve a Wachovia cashier's check dated October 16, 2007 in the amount of \$2,000.00.

23. Unbeknownst to Ms. Eve, Respondent received a loan in the amount of \$30,000.00 from a personal friend.

24. Although Respondent told his friend he intended to use the funds for personal investment, Respondent intended to use the money to fund the "settlement" he falsely told Ms. Eve that he had reached in her case.

25. Sometime in November of 2007, Ms. Eve met Respondent at a local bank at which time he presented her a second Wachovia cashier's check in the amount of \$28,000.00.

26. On January 11, 2008, Ms. Eve wrote to Respondent requesting details of the settlement. He did not respond.

27. On January 17, 2008, Ms. Eve received notice that one of the health care providers that treated her injuries had obtained a judgment in the amount of \$1,516.67.

28. On February 13, Ms. Eve contacted Mr. Pleasants' insurance company and advised that there was never any settlement. The agent for the insurance company advised Ms. Eve that Respondent had taken the nonsuit and that was the last they had heard of the case.

29. During his interview with the Virginia State Bar investigator, Respondent admitted that he had not properly handled Ms. Eve's case.

30. During the interview with the Virginia State Bar investigator, Respondent admitted that he used marijuana recreationally during the time period pertaining to the case.

## **II. NATURE OF MISCONDUCT**

Such conduct by Raul Novo 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 1.3 Diligence**

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

\* \* \* \*

**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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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**RULE 1.7 Conflict of Interest**

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

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**RULE 8.4 Misconduct**

It is professional Misconduct for a lawyer to:

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

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**VSB DOCKET NO. 08-031-074806**

**Complainant: Lobaina**

**I. FINDINGS OF FACT**

1. At all times relevant, Respondent was an attorney admitted to the practice of law in the Commonwealth of Virginia.
2. Respondent was admitted to the practice of law in the Commonwealth of Virginia on April 29, 1997.
3. Respondent met on February 7, 2005 with Mr. Israel Lobaina to obtain a divorce.
4. Mr. Lobaina was living in Powhatan at the time and his wife had left him.
5. Mr. Lobaina paid Respondent \$800 to handle the divorce, and he advised Respondent that they had already agreed to the terms of their divorce and the matter would therefore be uncontested.
6. Respondent filed a Bill of Complaint for divorce on April 20, 2005 in the Chesterfield County Circuit Court, along with other documents.
7. He took Mr. Lobaina's deposition and filed them with the court.
8. The depositions indicated that they were taken on May 23, 2005, but the court did not receive them until October 14, 2005.
9. Shortly after his deposition, Mr. Lobaina informed Respondent that he was moving back to Venezuela.
10. Mr. Lobaina further advised Respondent that Mr. Lobaina's friend, David Stoltz, would be handling his affairs while he was away and was authorized to act on Mr. Lobaina's behalf with respect to the divorce.
11. On May 11, 2006, Respondent received a letter from Judge Gill of the Chesterfield County Circuit Court advising that there were deficiencies in the filings associated with Mr. Lobaina's case.
12. Specifically, Judge Gill pointed out to Respondent that the file did not have a confidential addendum, the deposition in the file was over three months old and needed to be refreshed by affidavit, the Bill of Complaint and Final Decree stated that the parties had been

separated for six months but the deposition stated it was one year, and the property settlement agreement was only signed by one party and was not dated.

13. Judge Gill's May 11, 2006 letter also set the case for a status conference to take place on June 9, 2006.

14. Respondent claims he appeared in Judge Gill's courtroom on June 9, 2006 but left before Mr. Lobaina's case was called due to his having to appear in another case elsewhere.

15. Respondent failed to advise Judge Gill that he would be leaving the courtroom or otherwise receive permission to be excused.

16. Judge Gill dismissed Mr. Lobaina's Bill of Complaint due to Respondent's failure to appear when the he called the case.

17. Respondent did nothing further to protect his client's interests and failed to advise either Mr. Lobaina or Mr. Stoltz.

18. At no time did Respondent ever refile the Bill of Complaint for Divorce.

19. Mr. Lobaina returned to the United States in early 2008.

20. During the time that Mr. Lobaina was outside of the United States, Mr. Stoltz would call Respondent's office at least every one or two months to find out the status, leaving either a voice mail message or a message with the receptionist, but Respondent denies ever receiving any calls from Mr. Stoltz.

21. Sometime in January of 2008, Mr. Lobaina and Mr. Stoltz went to Respondent's office to enquire about the status of the divorce. A secretary told them that the divorce was pending.

22. Thereafter, Mr. Lobaina called Respondent on numerous occasions to determine the status of his divorce. Respondent did not return the calls.

23. Mr. Lobaina finally advised Respondent's receptionist that unless he called back he would contact the Virginia State Bar.

24. Respondent finally called back and advised that everything was ready to go and that he would forward copies of the divorce papers.

25. Respondent merely sent copies of the divorce papers for the case that had already been dismissed by Judge Gill.

26. Respondent contacted the Clerk's office of the Chesterfield County Circuit Court

only to learn that his case had been dismissed and that it had not been refiled.

27. During the interview with the Virginia State Bar investigator, Respondent admitted that he used marijuana recreationally during the time period pertaining to the case.

## **II. NATURE OF MISCONDUCT**

Such conduct by Raul Novo 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.

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### **RULE 1.3 Diligence**

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

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### **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 8.4 Misconduct**

It is professional Misconduct for a lawyer to:

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

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### **III. IMPOSITION OF SANCTION**

Having considered all the evidence before it and determined by unanimous decision to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that the Respondent license to practice law in the Commonwealth of Virginia be and the same is hereby **SUSPENDED** for a period of **Two and a Half Years (30 Months)** subject to the provisions Part Six, Section IV, Paragraph 13-25.H of the Rules of Court. The suspension shall commence on May 31, 2009.

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 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 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, 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 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 a certified copy of this order to Raul Novo at his last address of record with the Virginia State Bar, Gordon, Dodson, Gordon & Rowlett, Suite 101, 10303 Memory Lane, Chesterfield, Virginia 23832, and by regular mail to Craig S. Cooley, Respondent's counsel, 3000 Idlewood Avenue, P.O. Box 7268, Richmond, Virginia 23221-0268, and by hand delivery to Paulo E. Franco, Jr., 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 12<sup>th</sup> day of May, 2009.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: \_\_\_\_\_

*Robert E. Eicher*  
Robert E. Eicher, Chair