VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF CHUNG SUK OH

VSB DOCKET NOS. 15-052-100693, 16-052-103653, and 16-052-103654

AGREED DISPOSITION MEMORANDUM ORDER

On July 21, 2016, these matters were 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 William H. Atwill, Jr., Chair, Sandra L. Havrilak, Bretta Marie Zimmer Lewis, T. Tony H. Pham, and Sandra W. Montgomery, Lay Member. The Virginia State Bar was represented by Elizabeth K. Shoenfeld, Assistant Bar Counsel. Chung Suk Oh was present and was represented by counsel, Stacey Rose Harris and Bernard Joseph DiMuro. 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, Teresa McLean, 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 Nine Month Suspension with Terms, 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 July 21, 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, Chung Suk Oh, at his last address of record with the Virginia State Bar, Shin Law Group, 7600 Leesburg Pike, Suite 350 East, Falls Church, VA 22043, by regular mail to Stacey Rose Harris and Bernard Joseph DiMuro, Respondent's Counsel, DiMuro Ginsberg, P.C., 1101 King St Ste 610, Alexandria, VA 22314 with a copy hand-delivered to Elizabeth K. Shoenfeld, Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

ENTERED THIS 21st DAY OF July, 2016

VIRGINIA STATE BAR DISCIPLINARY BOARD

William H. Atwill

Digitally signed by William H. Atwill
DN: cn=William H. Atwill, o=Virginia State Bar, ou=Disciplinary Board, email=batwill@atandlpc.com, c=US
Date: 2016.07.21 14:27:03 -04'00'

William H. Atwill, Jr., Chair

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

IN THE MATTERS OF
CHUNG SUK OH

VSB Docket No. 16-052-103653
16-052-103654
15-052-100693

AGREED DISPOSITION
(Nine-Month Suspension With Terms)

Pursuant to the Rules of Supreme Court of Virginia, Vol. II, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Elizabeth K. Shoenfeld, Assistant Bar Counsel and Chung Suk Oh, Respondent, and Stacey Rose Harris, Respondent's counsel, hereby enter into the following Agreed Disposition arising out of these matters.

I. STIPULATIONS OF FACT

1. Respondent was licensed to practice law in the Commonwealth of Virginia on February 15, 2012. On March 18, 2015, his license was administratively suspended for failure to comply with his Continuing Legal Education ("CLE") requirements. Although notice of the administrative suspension was mailed to Respondent's address of record with the Virginia State Bar, Respondent claimed that he did not receive it. His license remained administratively suspended until December 7, 2015.

Docket Nos. 16-052-103653 and 16-052-103654 (Complainants Sun Hee Lee and Chong Am Lee)

2. Mr. Chong Am Lee and Ms. Sun Hee Lee are husband and wife and co-owners of a construction company.

3. Respondent represented Mr. Lee in litigation pending in the Circuit Court for Fairfax County, Virginia and he represented Mr. Lee in a licensure matter before the Virginia Department of Professional and Occupational Regulation ("DPOR").

Findings of Fact Regarding the Fairfax County Litigation

4. In July 2014, Jae and Shin Song sued Mr. Lee and the Lees' company JC Iron Metal Welding, Inc. ("JC Welding") in the Circuit Court for Fairfax County, Virginia. The lawsuit pertained to allegedly substandard workmanship that Mr. Lee and JC Welding

had performed on the Song residence. The lawsuit sought more than $400,000 in damages, plus attorney's fees and costs.

5. Respondent stated that he agreed to represent Mr. Lee only. Respondent accepted advance legal fees totaling $2,500.00, which he deposited in his operating account.

6. On or about September 29, 2014, Respondent filed an answer to the Songs' lawsuit on behalf of Mr. Lee only.

7. On or about October 24, 2014, the Songs' first interrogatories to JC Welding and first Requests for Production to Mr. Lee and JC Welding were served on Respondent. Respondent began the process of preparing responses, but he neither served responses nor requested an extension.

8. On February 6, 2015, the Songs filed a Motion to Compel. The Motion alleged that Mr. Lee and JC Welding had altogether failed to respond to the discovery.

9. On February 20, 2015, the Court entered an Order granting the Songs' Motion to Compel. The Order required Mr. Lee and JC Welding to provide full and complete responses to the discovery within six days and required the defendants to pay attorney's fees in the amount of $860.22.

10. Respondent never sent a copy of the Order on the Motion to Compel to Mr. Lee.

11. Respondent's file did not contain any documentation that he made any effort to ensure that Mr. Lee complied with the Order.

12. On February 27, 2015, the Songs filed a Motion for Sanctions, in which they alleged that Mr. Lee and JC Welding had failed to comply with the Court's order on the Motion to Compel.

13. On March 13, 2015, the Court granted the Motion for Sanctions. The sanctions included (1) precluding both defendants from introducing evidence at trial; and (2) requiring defendants to pay an additional $750.00 in attorney's fees.

14. Respondent never sent a copy of the Order on the Motion for Sanctions to Mr. Lee.

15. Respondent's file did not contain any documentation that he made any effort to ensure that Mr. Lee complied with the Order.

16. On March 18, 2015, as stated above Respondent's license to practice law in the Commonwealth of Virginia was administratively suspended due to failure to comply with CLE requirements, and he thus could not appear in Court.

17. Respondent did not advise Mr. Lee or the Court that his license had been suspended. Respondent did not advise Mr. Lee that he could not take any action on his behalf until his license was reinstated.

18. Respondent did not seek to withdraw as counsel.

19. The trial was scheduled to begin on April 14, 2015. Before the trial, Respondent advised the Lees, through his assistant Jessica Lim, that they did not need to appear for the trial.

20. A bench trial took place on April 14, 2015.

21. Respondent did not appear at trial, nor did any other person appear on behalf of Mr. Lee or JC Welding. On the trial date, the Songs' counsel telephoned Respondent from the courthouse, and Respondent told him that he would not appear for the trial.

22. The Court found that Mr. Lee and JC Welding breached their contract with the Songs and that they perpetrated a fraud in inducing the contract. The Court also found that Mr. Lee willfully violated the Virginia Consumer Protection Act by contracting without a license. It therefore awarded a judgment of $369,281.73 against Mr. Lee personally and $202,100 against JC Welding.

23. Respondent never informed Mr. Lee of the Court's judgment, although Respondent observed that the Court had sent a copy of the judgment to Mr. Lee directly.

24. After receiving complaints from the Lees, the VSB opened an investigation regarding this matter. During an interview with the Bar's investigator, Respondent admitted that this lawsuit was more than he could manage and that he "bit off a little more than I could chew."

25. In response to the Certification of these matters, Respondent stated that beginning in February 2015, he told Mr. Lee that he did not have any defenses to the claims against him and that Respondent was uncomfortable continuing as his attorney. Respondent said that he suggested that Mr. Lee engage bankruptcy counsel. As of the trial date, Respondent was aware that Mr. Lee had neither engaged bankruptcy counsel nor filed for bankruptcy.

Findings of Fact Regarding the DPOR Matter

26. At the same time that Respondent was representing the Lees in the litigation in the Fairfax Circuit Court, he was also representing Mr. Lee with regard to a complaint filed with the DPOR.

27. On November 5, 2014, Stacy Payne, an investigator with DPOR, sent a letter to Mr. Lee in which she requested that he provide information in response to a complaint filed by Mr. and Ms. Song.

28. On November 11, 2014, Respondent wrote a letter to DPOR on Mr. Lee's behalf. In his letter, he asserted that neither Mr. Lee nor JC Welding was a party to the contract with the Songs.

29. On February 12, 2015, Mr. Avalos, a DPOR investigator, wrote to Respondent. He asked Respondent to explain why Mr. Lee received $15,000 in payments from Mr. Song if he was not a party to the contract.

30. Respondent requested and received an extension until February 26, 2015 to respond to the February 12, 2015 letter. However, Respondent never responded to the February 12, 2015 letter, nor to the follow-up telephone calls from Mr. Avalos.

31. In response to the Certification of these matters, Respondent stated that he did not respond to Mr. Avalos's letter because a truthful response would have required him to admit the allegations against Mr. Lee.

32. On April 20, 2015, Mr. Avalos prepared a report regarding his investigation. His findings included that Mr. Lee failed to provide complete information in violation of 18 VAC 50-22-260 and that Mr. Lee had failed to satisfy the judgment awarded to Mr. and Ms. Song in violation of 18 VAC 50-22-260.

33. On October 29, 2015, Mr. Lee consented to revocation of his contractor's license. The Board for Contractors accepted Mr. Lee's consent to revocation on December 15, 2015.

Rules Violated: Rules 1.1; 1.3(a)-(c); 1.4(a)-(b); 1.15(a)(1), (b)(2); 1.16(c); 5.5(c).

Docket No. 15-052-100693 (Complainant Edward Chambers)

34. On or about January 31, 2014, Edward Chambers retained Respondent to represent him regarding the appeal of one conviction for Driving While Intoxicated ("DWI") in the Fairfax County Circuit Court and the trial of another DWI charge in the Arlington County General District Court.

35. Mr. Chambers's father paid Respondent a flat fee of $2,500 for each matter, for a total of $5,000. Respondent deposited these flat fees directly into his operating account, and not his trust account, which was his regular practice.

36. The trial in the Arlington County matter was set for May 5, 2014, which was more than three months after Respondent was retained.

37. Respondent recommended that Mr. Chambers enter a guilty plea for the case because there were no grounds to contest the charge. Respondent claims that he first recommended that Mr. Chambers plead guilty during a telephone call in April 2014. Mr. Chambers claims that Respondent did not recommend a guilty plea until May 2, 2014, which did not allow him sufficient time to consult another attorney regarding Respondent's recommendation.

38. On May 5, 2014, Mr. Chambers pleaded guilty to the Arlington County DWI charge.

39. The hearing on the appeal in the Fairfax County Circuit Court was set for June 23, 2014, which was nearly five months after Respondent was retained. On June 19, 2014, Respondent told Mr. Chambers that he needed to withdraw the appeal. Respondent and

Mr. Chambers dispute whether Mr. Chambers agreed that the appeal should be withdrawn.

40. Mr. Chambers claims that because Respondent did not tell him his recommendation until four days before the appeal was due, he did not have sufficient time to consult another attorney. In response to the Certification of this matter, Respondent claimed that he originally mentioned the withdrawal of the appeal to Mr. Chambers during an April 2015 telephone call.

41. During the June 19, 2014 meeting, Respondent agreed to return the $2,500 that Mr. Chambers's father had paid to pursue the appeal. Mr. Chambers accepted this offer.

42. On June 20, 2014, Respondent withdrew Mr. Chambers's appeal to the Fairfax County Circuit Court.

43. Mr. Chambers followed up with Respondent regarding the return of the money on September 21, October 21 and November 2, 2014.

44. On November 6, 2014, Respondent sent Mr. Chambers $500.00 via PayPal. On December 5, 2014, Respondent sent Mr. Chambers $1,943.00 via PayPal.

Rules Violated: 1.4(a); 1.15(a)(1), (b)(2)-(4); 1.16(d)

II. NATURE OF MISCONDUCT

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 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.

(c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

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.

RULE 1.15 Safekeeping Property

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(b) Specific Duties. A lawyer shall:

(2) identify and label securities and properties of a client, or those held by a lawyer as a fiduciary, promptly upon receipt;

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

(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 . . . .

RULE 1.16 Declining Or Terminating Representation

(c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable Rules of Court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

RULE 5.5 Unauthorized Practice Of Law; Multijurisdictional Practice of Law

(c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of Nine Month Suspension with Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. The terms with which the Respondent must comply are as follows:

1. On or before January 1, 2017, Respondent shall enroll and attend six (6) hours of continuing legal education (CLE) in the substantive area of law office management and/or trust account procedures, which hours shall not be credited toward Respondent's compliance with his annual mandatory CLE requirement. Upon completion of this Term and no later than January 7, 2017, Respondent shall certify his compliance in writing to the Assistant Bar Counsel assigned to this case.
2. On or before January 1, 2017, Respondent shall review the Virginia State Bar publication Lawyers and Other People's Money, 5th Edition, available on the Virginia State Bar's website at www.vsb.org. Upon completion of this Term and no later than January 7, 2017, Respondent shall certify his compliance in writing to the Assistant Bar Counsel assigned to this case.
3. After this Agreed Disposition is approved by the Disciplinary Board and no later than January 1, 2017, Respondent shall re-take the Multistate Professional Responsibility Examination and receive a scaled score of 85 or higher. Upon completion of this Term and no later than January 7, 2017, Respondent shall certify his compliance in writing to the Assistant Bar Counsel assigned to this case.

Upon satisfactory proof that all terms and conditions have been timely met, this matter shall be closed. If, however, any of the terms is not met by the corresponding deadline imposed

above, the Disciplinary Board shall impose an additional Nine Month Suspension pursuant to Rules of Supreme Court of Virginia, Vol. II, Part Six, § IV, ¶ 13-18.O. If imposed, the alternative disposition of an additional Nine Month Suspension shall begin either immediately following the conclusion of the first Nine Month Suspension or on the date on which the Disciplinary Board determines that Respondent has failed to comply with the terms and conditions, whichever is later.

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

THE VIRGINIA STATE BAR

By: _____
Elizabeth K. Shoenfeld, Assistant Bar Counsel

_____
Chung Suk Oh, Respondent

_____
Stacey Rose Harris, Respondent's Counsel