

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

RECEIVED

VIRGINIA STATE BAR EX REL.  
SECOND DISTRICT COMMITTEE

SEP 30 2010

Complainant

v.

Case No. CL 10-3590  
(VSB DOCKET NO. 09-022-079969)

VSB CLERK'S OFFICE

HILTON GORDON OLIVER

Respondent

MEMORANDUM ORDER

This cause came to be heard via teleconference hearing on September 15, 2010 by a duly convened, three-judge court consisting of the Honorable James A. Luke, Retired Judge, the Honorable Westbrook J. Parker, Retired Judge, and the Honorable Marjorie T. Arrington, Chief Judge Designate. The Virginia State Bar appeared by its Assistant Bar Counsel Paul D. Georgiadis. The Respondent, Hilton Gordon Oliver, was present and was represented by counsel Michael L. Rigsby, who also was present.

This matter came before the Court pursuant to Respondent's June 11, 2010 demand that the proceedings certified to the Disciplinary Board by the Second District Committee-Section II, be terminated and that this matter proceed before a three judge circuit court panel pursuant to §54.1-3935 of the Code of Virginia. On July 1, 2010, the Circuit Court of the City of Virginia Beach issued a Rule to Show Cause against the Respondent, returnable on October 8, 2010.

By order entered on August 13, 2010, the Supreme Court of Virginia appointed the members of this three judge panel, Honorable James A. Luke, Retired Judge, the Honorable Westbrook J. Parker, Retired Judge, and the Honorable Marjorie T. Arrington, Chief Judge Designate.

Pursuant to §54.1-3935 (B) of the Code of Virginia and Pt. 6, §IV, ¶13-6 H, the parties tendered an Agreed Disposition to the Court on August 23, 2010.

Upon review of the tendered Agreed Disposition and upon consideration of the arguments of counsel, the Court

ACCEPTS the tendered Agreed Disposition and thereby makes the following findings of fact, findings of misconduct and imposes the sanction of Public Reprimand without Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, Hilton Gordon Oliver, hereinafter "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On or about March, 2009, Respondent became counsel for Sheri Ganse in her contested, fault-based divorce action, Sheri Lynn Ganse v. Kenneth Ronald Lee in the Chesapeake Circuit Court.
3. Prior thereto, the Chesapeake Circuit Court held a *pendente lite* hearing on custody and support on February 11, 2009.
4. At the February 11, 2009 hearing, counsel for Kenneth Lee presented evidence of Sheri Ganse's serial adultery that she committed as a prostitute. The evidence consisted in part of testimony of a Mr. C. Mr. C testified to visiting Sheri Ganse at hotels and having sexual relations with her over a period of some eight months. Mr. C testified that he spoke with Ganse about the fact she was a prostitute and that she admitted to the conduct. He further testified that he spoke with two other clients of hers who had paid her for sex and discussed amounts they paid her for sex. Although Mr. C testified to the basis and nature of his relationship with Ganse, he did not testify to any specific dates, times, or locations of his encounters with Ganse.
5. At the conclusion of the hearing, the Court stripped Ganse of custody of the two year old daughter of the marriage and terminated her spousal support award.
6. After being retained and making an appearance in the case, Respondent authored and sent a letter to the wife of Mr. C to which he attached a copy of the transcript of Mr. C's February 11, 2009 court testimony.
7. In his letter to Mrs. C, Respondent outlined Mr. C's testimony and stated that he simply did not understand "why a person would falsely claim that he visited a 'prostitute six or eight times' if it is not true." Respondent advised that he expected Mr. C would be testifying at the divorce trial on June 25 and 26 as well as another custody hearing on May 22, 2009. He solicited the assistance of Mrs. C "if you have any information about Mr. C or his whereabouts which you might care to share with me under these circumstances."

## **II. NATURE OF MISCONDUCT**

Such conduct by Hilton Gordon Oliver constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **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 3.4    Fairness To Opposing Party And Counsel**

A lawyer shall not:

- (j) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, 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.

The Court hereby ORDERS

that Respondent be and is hereby issued this PUBLIC REPRIMAND for such misconduct.

The Clerk of the Disciplinary System shall comply with all requirements of Part 6, §IV, ¶13 of the Rules of Court, as amended (the "Rules"), including but not limited to assessing costs pursuant to ¶13-9E.1 of the Rules and complying with the public notice requirements of ¶13-9G of the Rules.

The Court Reporter who transcribed these proceedings is Teresa L. McLean, Chandler & Halasz Court Reporters, P.O. Box 9349, Richmond, VA 23227.

Let the Clerk of the Court send a copy *teste* to all counsel of record and to Barbara S. Lanier, Clerk of the Virginia State Bar Disciplinary Board, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219.

Entered 9 / 24 / 10

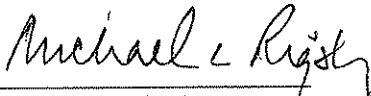
  
Marjorie T. Arrington  
Chief Judge Designate

I ASK FOR THIS:

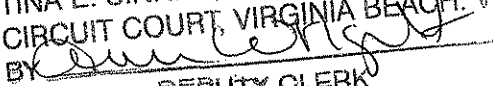


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