VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF THOMAS JAMES SEHLER
VSB DOCKET NOS. 11-052-087689 and 12-052-090918

MEMORANDUM ORDER OF REVOCATION

These matters came on to be heard on April 27, 2012, before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Martha JP McQuade, First Vice-Chair, presiding; Richard J. Colten; Randall G. Johnson, Jr.; Tyler E. Williams, III and Stephen A. Wannall, Lay Member. The Virginia State Bar was represented by Seth M. Guggenheim, Senior Assistant Bar Counsel. The Respondent Thomas James Sehler failed to appear in person or by Counsel. Teresa L. McLean, court reporter, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

All required notices with respect to the hearing were sent by the Clerk of the Disciplinary System to the Respondent in accordance with the Rules of the Supreme Court of Virginia.

The Chair opened the hearing by calling the case in the hearing room and causing the Assistant Clerk to call Respondent's name three times in the adjacent hall. The Respondent did not answer or appear. The Chair then polled the members of the Board as to whether any of them had any personal or financial interest that could affect, or could reasonably be perceived to affect, his or her ability to be impartial in this matter. Lay Member Stephen A. Wannall disclosed that the CPA firm he worked for 15 to 20 years ago did some work for the Respondent for a few years but that such dealings would not be a cause of interest or bias on his part. Each further Board member, including the Chair, responded that there were no such interests or conflicts.

These matters came before the Board as an Expedited Hearing pursuant to Part Six, Section IV, Paragraph 13-18(D) of the Rules of the Supreme Court of Virginia and the Chair explained the process pursuant to such Rule. In the misconduct phase: The Bar's Exhibit A, parts 1 through 40, was admitted without objection. After being sworn to faithfully and accurately translate the testimony of the witness, Angela P. Motes acted as translator for the Bar's witness Rosario Garcia. Debra J. Prillaman appeared as Counsel for Bar witnesses Martha L. Davis, Acting Assistant U.S. Trustee, and Jack Frankel, Attorney, Office of the U.S. Trustee. Testimony was also presented from the Bar's Investigator Ron McCall and witness Karen Rivera.

I. FINDINGS OF FACT

After due deliberations of the evidence and argument presented, the Board made the following findings of fact on the basis of clear and convincing evidence:

1. Respondent Thomas James Sehler was licensed to practice law in the Commonwealth of Virginia on August 27, 1980. The Respondent's license was revoked on June 16, 1986 with his consent. His license was reinstated by the Supreme Court of Virginia on March 9, 1992. Since that date, Respondent has been classified as an Active Member of the Virginia State Bar and has engaged in the practice of law.

2. Prior to early 2011, Respondent's law practice focused on "home retention" through the Thomas Law Firm, PLLC in which Respondent would attempt to negotiate mortgage loan modifications or to file bankruptcy petitions in order to assist clients whose homes were subject to imminent foreclosure.

3. On April 27, 2010, Respondent filed a bankruptcy case for Rosario Garcia under Chapter 7 of the Bankruptcy Code in the Eastern District of Virginia. Such filing was and continued to be so deficient that the Respondent was ordered by the court on September 30, 2010 to disgorge $1,000 of his fee to Ms. Garcia.

4. On or about October 6, 2010, Respondent had Ms. Garcia meet him at a bank. Respondent tendered to Ms. Garcia his trust account check number 1102 made payable to

her in the amount of $1,000 and instructed Ms. Garcia to negotiate it and give him the $1,000 in cash - which Ms. Garcia did. The Respondent informed Ms. Garcia that the payment to him was for his filing another bankruptcy for her. To date, Respondent has not filed another bankruptcy for Ms. Garcia or performed any other services for her.

5. On October 21, 2010, Respondent filed a Certification with the Bankruptcy Court that he had, in fact, disgorged the $1,000 to Ms. Garcia as ordered. Such Certification was false.

6. In an interview with the Bar Investigator, Respondent admitted that he did not deposit the $1,000 in cash into the attorney escrow account or even into the attorney operating account.

7. Respondent could not demonstrate any work done on behalf of Ms. Garcia after October, 2010. It was only upon the opening of the investigation by the Virginia State Bar that Respondent did, in fact, disgorge the sum of $1,000 to Ms. Garcia.

8. On February 3, 2009, Respondent filed a Voluntary Petition for bankruptcy protection under Chapter 13 of the Bankruptcy Code for himself. In doing so, Respondent failed to disclose, among other things, that he was a practicing attorney and that he was actively practicing before the Bankruptcy Court, receiving income in that endeavor.

9. On May 26, 2009, Respondent filed a Voluntary Petition for bankruptcy protection under Chapter 7 of the Bankruptcy Code for Hilda Crespo de Molina in order to stop a foreclosure on her home. Respondent's filings were so deficient and inaccurate that, by Memorandum Opinion and Order dated December 15, 2009, Respondent was ordered to repay Ms. de Molina the entire $2,000 fee he had charged her, in that the bankruptcy filing "provided [Ms. de Molina] no value." He was ordered to repay the fee by January 5, 2010. When he had not done so by March 25, 2010, the Respondent was found in civil contempt of the Bankruptcy Court and sanctioned $500. Finally, it was discovered that Respondent filed the Petition in Ms. de Molina's case without even having obtained her signature to the filing, in violation of Local Bankruptcy Rule 5005-1.

10. Likewise, on July 17, 2009, Respondent filed a Voluntary Petition for bankruptcy protection under Chapter 7 of the Bankruptcy Code for Yonatan Jose Capos-Luna. Respondent failed to obtain the required certificate that the Debtor had been briefed by a credit counseling agency. When the U.S. Trustee moved to dismiss the case for that failure, Respondent neither responded to the Motion nor appeared at the hearing. By Memorandum Order and Opinion dated December 16, 2009, the Court found that there was no evidence the Debtor had received any benefit from the claimed services of Respondent and that "no portion of the fee is reasonable." Accordingly, the Respondent was ordered to repay the entire amount of his fee to his client not later than January 7, 2011. Only after the U.S. Trustee filed a Show Cause did Respondent produce evidence of payment.

11. On March 13, 2010, Respondent filed a Voluntary Petition for bankruptcy protection under Chapter 7 of the Bankruptcy Code for Michelle Manlangit Banka. Respondent failed to file a Homestead Deed under §34-4 of the Code of Virginia, 1950, as amended, on Debtor's behalf, and, as a result, Debtor lost the motor vehicle that she was trying to keep. When it appeared that the information contained in the schedules would not support relief under Chapter 7, Respondent amended those schedules with information that the Debtor later testified was false. In an attempt to prevent the U.S. Trustee's office from issuing a subpoena to the Debtor, Respondent represented to that office that the Debtor had moved to Richmond and had recently lost her baby. The U.S. Trustee's office later found that neither representation was true. On November 1, 2010, Respondent entered into a Consent Order For Disgorgement of Fees under which he agreed to repay to Ms. Banka his entire fee charged in these matters, $2,000.

12. Finally, on August 16, 2011, Respondent filed a Voluntary Petition for bankruptcy protection under Chapter 13 of the Bankruptcy Code for Fernando Ramiro Costas. Respondent certified as true a material, jurisdictional fact that was, in fact, false. Because of this and Respondent's history, an Order Adjudging Sanctions was entered by

the U.S. Bankruptcy Court for the Eastern District of Virginia on November 21, 2011 under which Respondent was ordered to repay to the Debtor the sum of $1,000 and was further ordered to pay a monetary sanction of $750 to the Clerk of that Court.

13. Mr. Frankel testified that he personally encountered Respondent in Bankruptcy Court approximately a week before the Board hearing and believes him to be still representing people in that Court.

14. In sum, and in accordance with Rule 13-18(D), Bar Counsel has borne its burden of proving by clear and convincing evidence that Respondent is engaging in misconduct that is likely to result in injury to, or loss of property of, one or more of Respondent's clients and that the continued practice of law by the Respondent poses an imminent danger to the public.

II. MISCONDUCT

After due deliberation, the Board further found, on the basis of clear and convincing evidence, that the Respondent Thomas James Sehler has violated the provisions of the following Rules of Professional Conduct, as charged by the Bar:

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 1.2 Scope of Representation

> (c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

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.

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

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 or placed in a safe deposit box or other place of safekeeping as soon as practicable.

(2) For lawyers or law firms located in Virginia, a lawyer trust account shall be maintained only at a financial institution approved by the Virginia State Bar, unless otherwise expressly directed in writing by the client for whom the funds are being held.

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

(b) Specific Duties. A lawyer shall:

(1) promptly notify a client of the receipt of the client's funds, securities, or other properties;

(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; and

(5) not disburse funds or use property of a client or third party without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

(3) In the case of funds or property held by a lawyer as a fiduciary, the required books and records shall include an annual summary of all receipts and disbursements and changes in assets comparable in detail to an accounting that would be required of a court supervised fiduciary in the same or similar capacity; including all source documents sufficient to substantiate the annual summary.

(4) All records subject to this Rule shall be preserved for at least five calendar years after termination of the representation or fiduciary responsibility.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) Reconciliations.

(i) At least quarterly a reconciliation shall be made that reflects the trust account balance for each client, person or other entity.

(ii) A monthly reconciliation shall be made of the cash balance that is derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance.

(iii) At least quarterly, a reconciliation shall be made that reconciles the cash balance from (d)(3)(ii) above and the subsidiary ledger balance from (d)(3)(i).

(iv) Reconciliations must be approved by a lawyer in the law firm.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

[Note: Rule 1.15 as set forth above was effective June 21, 2011. The full prior version of this Rule is hereby incorporated by reference herein to the extent applicable to Respondent's conduct occurring prior to June 21, 2011.]

RULE 1.16 Declining Or Terminating Representation

(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 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly:

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

(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client, subject to Rule 1.6; [and/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:

(c) Falsify evidence, [and/or] counsel or assist a witness to testify falsely[.]
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(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

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; or

(b) fail to disclose a fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law; [and/or]

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

III. SANCTION

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar, including the Respondent's prior disciplinary record. After due deliberation, the Board announced the appropriate sanction as REVOCATION.

Accordingly, by this Memorandum Order and in accordance with the Summary Order issued on April 27, 2012, it is ORDERED that the license of the Respondent THOMAS JAMES SEHLER is REVOKED effective April 27, 2012.

It is further ORDERED that, as directed in the Board's April 27, 2012 Summary Order in these matters, 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 Revocation 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 client. Respondent shall give such notice within 14 days of the effective date of the Revocation, and make such arrangements as are required herein within 45 days of the effective date of the Revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the Revocation 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 April 27, 2012, 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.

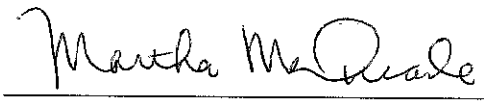
It is further ORDERED that, pursuant to Part 6, Section IV, Paragraph 13-9(E) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall send an attested copy of this Order, by certified mail, to Respondent at his last address of record with the Virginia State Bar, that being Thomas James Sehler, The Thomas Law Firm, Reston Town Center, Suite 500, 1818 Library Street, Reston, Virginia 20190, and a copy

by regular mail to Seth M. Guggenheim, Senior Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED on July 11, 2012.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Martha JP McQuade, Chair