

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

RECEIVED

APR 27 2015

IN THE MATTERS OF
TAWANA DENISE SHEPHARD

VS B Docket Nos. 13-051-094272

13-051-095253
13-051-094746
VSB CLERK'S OFFICE

AGREED DISPOSITION MEMORANDUM ORDER

On April 21, 2015, this matter was 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 Peter Allan Dingman, Thomas Ralph Scott, Jr., Lisa Ann Wilson, Anderson Wade Douthat, IV, Lay Member, and Richard J. Colten, Acting Chair. The Virginia State Bar was represented by Kathleen Maureen Uston, Assistant Bar Counsel. Tawana Denise Shephard was present and was not represented by counsel. 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 Angela Sidener, 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 Disciplinary Record and any responsive pleadings of counsel,

The Board accepts the Agreed Disposition and the Respondent shall receive a Public Reprimand with Terms as set forth in the Agreed Disposition, which is attached to this Memorandum Order.

It is further **ORDERED** that the sanction is effective April 21, 2015.

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 by Certified Mail, return receipt requested to Tawana Denise Shephard, PO Box 6473, Alexandria, VA 22306, her last address of record with the Virginia State Bar, with a copy by regular mail to Tawana Shephard, 105 Spring Towne Circle, Baltimore, MD 21234 and hand-delivered to Kathleen Maureen Uston, Assistant Bar Counsel, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-3565.

ENTERED THIS 21 DAY OF April, 2015

VIRGINIA STATE BAR DISCIPLINARY BOARD


Richard J. Colten, Acting Chair

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IN THE MATTERS OF
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VS B Docket Nos. 13-051-094272
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AGREED DISPOSITION
(Public Reprimand with Terms)

Pursuant to the Rules of the Virginia Supreme Court Rules of Court Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Kathleen Maureen Uston, Assistant Bar Counsel and Tawana Denise Shephard, Respondent, *pro se*, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. At all relevant times, Respondent was licensed to practice law in the Commonwealth of Virginia.
2. On or around December 27, 2012, the Virginia State Bar received a complaint from Herbert L. Beskin, Esquire, the United States Trustee in Bankruptcy for the Western District of Virginia (hereinafter "Complainant Beskin.") Complainant Beskin filed this complaint due to certain actions and inactions of Respondent that came to his attention following Respondent's filing of a Chapter 13 bankruptcy petition on behalf of Mr. Edward E. Dunn. At this time, Respondent was an independent contractor with the Glenmore Law Firm.
3. Attached to Complainant Beskin's complaint was an Order entered on August 18, 2011, by the United States Bankruptcy Court for the Western District of Virginia detailing deficiencies in the Chapter 13 bankruptcy petition filed by Respondent on Mr. Dunn's behalf. The Order also detailed occasions on which Respondent affirmatively represented to the court

that she would take certain actions on behalf of her client yet failed to timely do so. Because of this, the court ultimately required that a significant portion of the Glenmore law firm's fee be disgorged.

4. Specifically, the court found that on January 19, 2011, Respondent filed a Chapter 13 bankruptcy petition on behalf of Mr. Dunn in the Eastern District of Virginia, but that Respondent failed to file an Attorney Disclosure Statement and Form B-22(c).

5. On March 30, 2011, venue was transferred to the Western District of Virginia by Respondent, and also on that date Respondent filed a Chapter 13 Plan with the Clerk of Court on Mr. Dunn's behalf. On March 31, 2011, the court entered an Order directing the Debtor, Mr. Dunn, to cure deficiencies in the petition and the schedules, which Order was served upon Respondent and the Debtor.

6. On May 4, 2011, the court issued a Show Cause against the Debtor, Mr. Dunn, to appear on May 23, 21011, and show cause why his case should not be dismissed due to his failure to cure the deficiencies previously noted by the court. Respondent appeared at this hearing. The court advised Respondent that the Show Cause would be dismissed if she complied with the court's May 4, 2011, Order. Respondent affirmatively represented to the court that she would do so. Despite this representation, she failed to comply with the court's order. Respondent notes, however, that at this time, she was in the process of securing substitute local counsel and that this attorney, Larry L. Miller, Esquire, cured the above deficiencies following his entry of appearance in the case.

7. On June 21, 2011, the court entered an Order requiring Respondent to appear on July 18, 2011, to show cause why the case should not be dismissed.

8. Also on June 21, 2011, Respondent was replaced as counsel for the Debtor by Mr. Miller. On July 1, 2011, Mr. Miller corrected all of the deficiencies present in Respondent's

filings on behalf of the Debtor, including filing an amended Chapter 13 Plan which was approved by the court on August 17, 2011, and Mr. Dunn's bankruptcy matter was successfully concluded.

9. Respondent did not appear at the hearing on July 18, 2011, because she did not receive notice of same, and the court so found. At this hearing, Mr. Miller proffered that the Debtor had paid Respondent's law firm a total of \$6,500.00.

10. On July 22, 2011, the court entered an Order requiring Respondent to appear on August 15, 2011, to show cause why this fee should not be disgorged and to further show cause why she should not be sanctioned for failing to file pleadings with the clerk and for abandoning her client, Mr. Dunn.

11. Following this hearing, the court found that Respondent had failed to properly prosecute Mr. Dunn's bankruptcy case, had abandoned her client, and had provided only \$1,500.00 worth of beneficial legal services to Mr. Dunn. Respondent was therefore ordered to disgorge the sum of \$5,000.00. The court declined to further sanction Respondent or to bar her from practice before that court.

12. Respondent noted an appeal of this Order on behalf of the law firm, but failed to timely file a brief in support of the appeal. On March 29, 2012, the appeals court ordered Respondent to show cause why the appeal should not be dismissed due to failure to timely file a brief in support thereof. Respondent failed to do so and on April 10, 2012, the appeal was dismissed. Respondent notes, however, that her firm was unwilling to proceed with the appeal.

13. As of this date, Respondent has failed to remit the amounts she was ordered by the court to disgorge. Respondent notes, however, that the \$6,500.00 paid by Mr. Dunn was paid to the Glenmore Law Firm and not to her personally, and that she did not personally receive these funds.

As to VSB Docket Nos. 13-051-095253 and 13-051-094746

14. On or around March 28, 2013, Kenneth N. Whitehurst, III, the United States Trustee in Bankruptcy for Region 4 (Norfolk Division) (hereinafter “Complainant Whitehurst”) filed a complaint against Respondent with the Virginia State Bar. Complainant Whitehurst’s complaint arose out of his investigation of a bankruptcy case filed by Respondent on behalf of Ms. Alice Tappe (hereinafter “Complainant Tappe.”)

15. Complainant Whitehurst alleged that on June 27, 2011, Respondent filed a bankruptcy petition on behalf of Complainant Tappe in the United States Bankruptcy Court for the Eastern District of Virginia, Norfolk Division. Respondent testified during a deposition taken by Complainant Whitehurst that she had instructed her client, Complainant Tappe, that she was to hire successor counsel following filing by Respondent of her bankruptcy petition, which Respondent did as a courtesy to Complainant Tappe in order to avoid certain actions by her creditors. Respondent testified further that Complainant Tappe agreed to hire local counsel immediately but was not able to do so. Local rules, however, prohibit an attorney from withdrawing as counsel of record unless given leave of court to do so. Respondent admitted that she was aware of this local rule, but states that she filed the bankruptcy case on Ms. Tappe’s behalf in order to forestall a foreclosure on her home.

16. During the course of the bankruptcy case, Respondent was deficient in numerous filings made on behalf of Complainant Tappe and was thus the subject of numerous deficiency notices issued by the Clerk’s office.

17. In addition, Complainant Whitehurst noted that Respondent rescheduled a “341” hearing but thereafter failed to file proper notice of a new “341” hearing date, and filed an incomplete Statement of Financial Affairs on behalf of Complainant Tappe. Complainant Whitehurst noted further that, due to these deficiencies, a Notice to Show Cause was issued

against Respondent. Respondent sought and obtained a continuance of the hearing date on this Notice to Show Cause, and in granting her a continuance, the court instructed Respondent to notice a specific hearing date for the continuance of the Notice to Show Cause, which Respondent failed to do.

19. Ultimately, Complainant Tappe's bankruptcy case successfully concluded.

20. On or around February 8, 2013, Complainant Tappe filed a complaint against Respondent arising out of the above facts. In her complaint, Complainant Tappe stated that Respondent did not advise her of the deficiencies and other matters detailed above, did not keep her informed about what was transpiring in her case, and failed to advise her of what actions the court was taking and why in her case.

21. Prior to the events giving rise to these matters, Respondent, who has been licensed to practice law in the Commonwealth of Virginia since 1993 and has no disciplinary record, maintained a solo practice for more than 10 years. During those years of practice, Respondent represented numerous clients in bankruptcy and other matters in Virginia without incident.

22. In 2007, Respondent terminated her solo practice in Virginia and moved to Maryland. Due to the downturn in the economy at this time, Respondent experienced career challenges and economic decline, including periods of unemployment. She therefore sought additional means of support and revenue and in 2010, responded to an advertisement for a position as a mortgage forensic auditor. The advertisement indicated that the company was seeking attorneys and that training would be provided. Respondent interviewed and was given a position as an independent contractor. However, it soon became clear that the arrangement was not beneficial and Respondent began to transition away from the firm in 2011. It was during this period of time that the events giving rise to these matters took place.

II. NATURE OF MISCONDUCT

Such conduct by the Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.3 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.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(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.

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and the Respondent tender to the Disciplinary Board for its approval the agreed disposition of a Public Reprimand 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. Respondent shall review the local rules of the United States Bankruptcy Court for the Western District of Virginia, as well as the local rules and procedures detailed on the website created by Complainant Beskin. Within thirty (30) days of the issuance of this Agreed Disposition, Respondent shall certify in writing to the Assistant Bar Counsel Uston that she has done so.

2. Respondent shall review the local rules of the United States Bankruptcy Court for the Eastern District of Virginia. Within thirty (30) days of the issuance of this Determination, Respondent shall certify in writing to the Assistant Bar Counsel Uston that she has done so.

3. Respondent shall not violate any of the local rules and procedures of the United States Bankruptcy Court in any district of the Commonwealth of Virginia. If a finding is made by a disciplinary tribunal that Respondent has violated one or more of any of the local rules of the United States Bankruptcy Courts in any district in the Commonwealth of Virginia within the next twenty- four (24) months, then this shall be considered to be a violation of this Term. In order for a finding by a disciplinary tribunal to be considered a breach of this term, that finding shall recite that Respondent's violation of any such local rules occurred within twenty- four (24) months from the date of issuance of this Determination.

4. Respondent shall not violate any of the Rules of Professional Conduct enumerated above. If a finding is made by a disciplinary tribunal that Respondent has violated one or more of the Rules of Professional Conduct enumerated above within the next twenty- four (24) months, then this shall be considered to be a violation of this Term. In order for a finding by a disciplinary tribunal to be considered a breach of this term, that finding shall recite that Respondent's violation of any such Rule of Professional Conduct occurred within twenty- four (24) months from the date of issuance of this Determination.

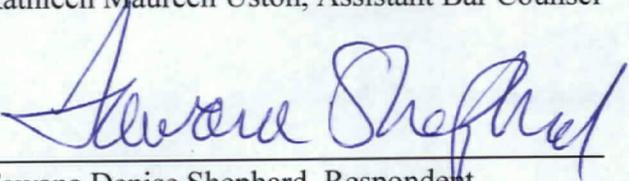
5. Respondent shall write letters of apology to both Complainant Beskin and Complainant Whitehurst for the errors and omissions that occurred in the bankruptcy matters involving Eric Dunn and Alice Tappe. Within thirty (30) days of the issuance of this Agreed Disposition, Respondent shall certify in writing to the Assistant Bar Counsel Uston that she has done so, and provide copies of said letters to Ms. Uston.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, all the terms and conditions are not met by the deadlines imposed above, the Respondent agrees that the Disciplinary Board shall impose a forty-five (45) day suspension of her license to practice law pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

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

THE VIRGINIA STATE BAR

By: _____
Kathleen Maureen Uston, Assistant Bar Counsel



Tawana Denise Shephard, Respondent

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

THE VIRGINIA STATE BAR



By: _____
Kathleen Maureen Uston, Assistant Bar Counsel

Tawana Denise Shephard, Respondent