

VIRGINIA :

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF LESLIE DANA SILVERMAN

**VSB Docket Nos.: 07-052-2031
07-052-2323**

ORDER OF SUSPENSION

This matter came on May 21, 2009, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent, Leslie Dana Silverman, relative to the matters contained in the Subcommittee Determination (Certification) issued to the Respondent, by the Fifth District—Section II Subcommittee of the Virginia State Bar on March 3, 2009. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Dr. Theodore Smith, lay member, John S. Barr, Glenn M. Hodge, Martha JP McQuade, and William E. Glover, presiding Chair.

Seth M. Guggenheim, Senior Assistant Bar Counsel, representing the Bar, and the Respondent, Leslie Dana Silverman, presented an endorsed Agreed Disposition, dated May 19, 2009, reflecting the terms proposed by the parties as a resolution of the allegations of ethical misconduct contained in the Subcommittee Determination (Certification). The court reporter for the proceeding was Jennifer Hairfield of Chandler & Halasz, PO Box 9349, Richmond, Virginia telephone (804) 730-1222.

Having considered the Agreed Disposition, it is the decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

1. At all times relevant hereto, Leslie Dana Silverman, (hereafter “Respondent”), was an attorney licensed to practice law in the Commonwealth of Virginia, although she was not at all times in good standing, as set forth below.

2. The Respondent's license to practice law in Virginia was suspended from March 29, 2006, until January 19, 2007, for her failure to comply with mandatory continuing legal education requirements.

3. The Respondent's license to practice law in Virginia was suspended from October 11, 2006, until January 19, 2007, for nonpayment of annual bar dues and her failure to file the mandatory certification regarding professional liability insurance.

As to VSB Docket No. 07-052-2031:

4. Despite the fact that her license to practice law in Virginia was suspended at the time, the Respondent accepted employment on or about September 19, 2006, as an attorney to defend Anthony Nixon in a felony charge originating in the Fairfax County, Virginia, General District Court.

5. Before fully earning the sums tendered to her, the Respondent deposited the sum of \$500.00, received from Mr. Nixon at the time he engaged the Respondent, directly into her operating account. The written fee agreement used by the Respondent provided that "The client further acknowledges that the funds/flat fee will not be held in a trust account; and the client may not receive a refund of the fees if the client later chooses not to hire the lawyer or chooses to terminate the lawyer's services."

6. The Respondent executed the "Information on Attorney" form used by the Court, which was delivered to the Court by the Respondent's client on or about September 20, 2006.

7. The Respondent failed to appear in Court on a scheduled court date of October 16, 2006, but did contact the Court that same date by telephone stating that she had a "bad sinus infection."

8. The matter was continued by the Court to January 3, 2007, but the Respondent failed to appear on that date, as well. She later claimed that while her client had been informed of the January 3, 2007, court date, such date was "never communicated" to her. The Respondent admitted to a Virginia State Bar investigator

that she never called the Court to determine the date to which the matter had been continued from the original date of October 16, 2006.

9. The Respondent was fined by the Court for her failure to appear on January 3, 2007; the client ultimately secured different counsel.

As to VSB Docket No. 07-052-2323:

10. Temi Edward Obasun (hereafter "Complainant") engaged the Respondent on or about December 5, 2006, to represent him in a civil matter then pending in the Fairfax County, Virginia, General District Court. The Complainant paid the Respondent a total of \$1,200.00, with at least \$800.00 having been paid on the occasion of Respondent's engagement as Complainant's counsel.

11. The Respondent deposited all sums tendered to her by the Complainant in her law firm operating account, and not in an attorney escrow account, despite the fact that the sums tendered had not been fully earned by the Respondent as of the time they were deposited to her operating account.

12. The Respondent appeared in the Fairfax County, Virginia, General District Court on the Complainant's behalf on December 11, 2006, at a time when her license to practice law in Virginia was suspended. The Court granted the Complainant's Motion to Rehear the civil matter wherein a judgment of nearly \$11,000.00 had earlier been entered by the Court against the Complainant.

13. Following the Respondent's December 11, 2006, court appearance, the opposing counsel, representing the plaintiff in the civil matter, contacted the Virginia State Bar regarding the status of Respondent's license to practice law in Virginia. Counsel was informed that the Respondent's license to practice law in Virginia was suspended.

14. Thereafter, plaintiff's counsel moved the Court to reinstate the judgment that had been entered

against the Complainant, which motion the Court granted. The Court determined that under Virginia law any appearance or argument made by the Respondent on December 11, 2006, was “invalid” and had “no legal effect” due to the suspension of her license.

15. Accordingly, the judgment rendered against the Complainant on November 28, 2006, was reinstated and the scheduled trial date of February 6, 2007, was stricken from the docket.

16. In early March of 2007 the Respondent refunded fees to the Complainant by means of a check drawn on her law firm operating account.

The Board finds by clear and convincing evidence that the Respondent has violated the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.3 Diligence

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

RULE 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:
 - (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

RULE 5.5 Unauthorized Practice Of Law

- (a) A lawyer shall not:
 - (1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction[.]

Upon consideration whereof, it is ORDERED that:

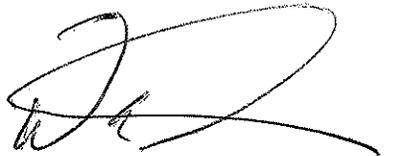
The Respondent's license to practice law in the Commonwealth of Virginia be, and it hereby is, suspended for a period of sixty (60) days, effective June 1, 2009.

The provisions of Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia shall be applicable to the extent the Respondent is handling any client matters as of the effective date of her suspension which require licensure as an attorney in the Commonwealth of Virginia, and the Respondent shall comply fully with the said Rule of Court.

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.

ENTERED this 21st day of May, 2009.

VIRGINIA STATE BAR DISCIPLINARY BOARD

A handwritten signature in black ink, appearing to read 'W. E. Glover', written over a horizontal line.

William E. Glover, 2nd Vice Chair