

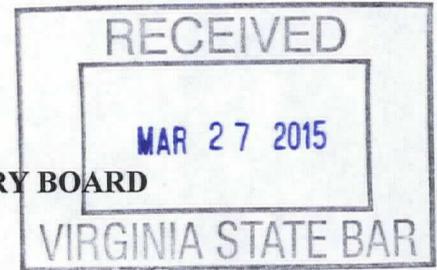
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VIRGINIA:

MAR 27 2015

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTERS OF
DUNCAN ROBERTSON ST. CLAIR, III



VSB Docket Nos. 15-021-101042
15-021-101208

AFFIDAVIT DECLARING CONSENT TO REVOCATION

Duncan Robertson St. Clair, III ("Respondent"), after being duly sworn, states as follows:

1. That he was licensed to practice law in the Commonwealth of Virginia on October 10, 1984;
2. That he submits this Affidavit Declaring Consent to Revocation pursuant to Part 6, Section IV, Paragraph 13-28 of the Rules of the Supreme Court of Virginia.
3. That his consent to revocation is freely and voluntarily rendered, that he is not being subjected to coercion or duress, and that he is fully aware of the implications of consenting to the revocation of his license to practice law in the Commonwealth of Virginia;
4. That he is aware that he is the subject of a pending disciplinary proceeding involving allegations of misconduct, the specific nature of which is as follows:

15-021-101042

In September 2010, Tarek Saddam ("Saddem") was sentenced in the Virginia Beach Circuit Court ("VBCC") to an active period of incarceration of seven (7) months after being convicted of several offenses including assault on a police officer, felony hit and run, and obstruction of justice, to which Saddam had pled guilty pursuant to a plea agreement.

After receiving his sentence, Saddam, a non-citizen of the United States, became subject to an immigration detainer issued by the United States Department of Homeland Security, which assumed custody of Saddam after the completion of his jail sentence for the purpose of pursuing the deportation of Saddam based on the criminal convictions in the VBCC.

In early 2012, Saddam's family consulted with Respondent about obtaining assistance with preventing Saddam's deportation. Based on Respondent's assurance that he could prevent the deportation, Saddam's family hired Respondent at an agreed-upon fixed fee of \$7,500.00. By the end of June 2012, Saddam's family paid Respondent a total of \$6,000.00 in advance fee payments as follows: 3/27/12: \$2,500.00; April: \$1,000.00; and 6/8/12: \$2,500.00. Respondent did not deposit those advance fee monies into trust.

In July 2012, Respondent filed a Motion to Reopen and Amend Plea on behalf of Saddam in the VBCC requesting that the case be reopened and Saddam be allowed to change his guilty plea on the basis that Saddam had not been advised of the possible immigration consequences if he pled guilty. By letter dated August 10, 2012 addressed to The Honorable Stephen C. Mahan, the judge who had presided over Saddam's criminal case, Respondent stated in further support of the motion that Saddam "does not recall being advised of the ramifications of his accepting his plea agreement affecting the status of his immigration." The foregoing statements were false, as Respondent knew prior to filing the motion and August 10, 2012 letter that Saddam had in fact been advised by his trial counsel of the possibility of being deported if he pled guilty to the criminal charges. By order entered on August 13, 2012, the motion was denied on several grounds, including that the VBCC lacked jurisdiction to consider it.

Respondent took no other action on Saddam's behalf. Saddam's family subsequently hired an immigration law attorney who handled the matter to a successful conclusion.

15-021-101208

Effective September 8, 2014, Respondent's license to practice law in the Commonwealth of Virginia was indefinitely suspended on the basis of impairment. Effective September 9, 2014, Respondent's license to practice law in the Commonwealth of Virginia was suspended for a period of 18 months on the basis of ethical misconduct.

On October 27, 2014, the complainant, Douglas K. Davis ("Mr. Davis"), unaware that Respondent's law license was suspended, visited Respondent's office for the purpose of hiring him to represent his son, Douglas K. Davis, III, on a misdemeanor criminal charge. On that date, Respondent met with Mr. Davis and his son and discussed the criminal charge. ~~Respondent did not inform the Davis of his license suspension and provided legal opinions and advice and agreed to represent the son on the criminal charge for a fixed fee of \$750.00.~~ *DRJ* That same day, Mr. Davis paid the \$750.00 to Respondent in cash for which Respondent provided him a receipt which Respondent signed next to the heading "Attorney". Respondent did not deposit those advance fee monies into trust.

The criminal case was scheduled for a hearing in the Norfolk General District Court on November 18, 2014. The Davises appeared, but Respondent did not. Without the benefit of

¹ Respondent identified a date/time discrepancy on the criminal summons issued against Mr. Davis' son which Respondent said he was going to address, recommended that the son apologize to the police officer involved, and told the Davises that he could get the charge dismissed. *DRJ*

legal counsel, Mr. Davis' son testified regarding the events that had led to the issuance of the criminal charge against him in a companion criminal case which had been brought against a co-defendant.

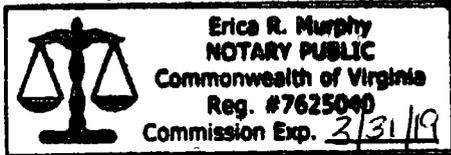
After the conclusion of the court proceeding, the Davises conducted an internet search and learned Respondent's law license was suspended. They called Respondent who informed Mr. Davis for the first time that he had arranged for another attorney to handle the case, Clifton Hicks ("Mr. Hicks"), who had been unable to appear in court on November 18, 2014 due to illness. Respondent had not previously discussed with the Davises the association of Mr. Hicks or any other attorney in the case nor obtained their consent to any such arrangement. The Davises declined representation by Mr. Hicks and secured other counsel.

In conjunction with this complaint, Respondent falsely claimed to the bar he had informed the Davises during the October 27, 2014 consultation that: i) he was not practicing law and had closed his practice; and ii) Mr. Hicks would be handling the case.

5. That he acknowledges that the material facts upon which the allegations of misconduct are predicated are true; and

6. That he submits this Affidavit and consents to the revocation of his license to practice law in the Commonwealth of Virginia because he knows that if the disciplinary proceedings based on the said alleged misconduct were brought or prosecuted to a conclusion, he could not successfully defend them.

Given this 19th day of March, 2015.



[Signature]
Duncan Robertson St. Clair, III
Respondent

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Norfolk, to wit:

The foregoing Affidavit Declaring Consent to Revocation was subscribed and sworn to before me by Duncan Robertson St. Clair, III, on this 23 day of March, 2015.

[Signature]
Notary Public

My Commission expires: 3/31/19.
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