

VIRGINIA:
BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
CARLOTTA BERNICE THOMPSON

Respondent

)
)
) VSB DOCKET NOS.:

) 08-032-074710 (Drew)

) 08-032-075416 (Askew)

) 09-032-076423 (Elder)

) 09-032-076797 (David)

) 09-032-077036 (VSB-Trust Account)

) 09-032-077496 (Hill)

) 09-032-078036 (Law)

) 09-032-077730 (Harper)

) 09-032-077797 (Coppedge)

) 09-032-078520 (Hammond)

) 10-032-080899 (VSB)

)

ORDER OF REVOCATION

THIS MATTER came to be heard on December 9, 2010, before a duly convened panel of the Virginia State Bar Disciplinary Board ("Board") consisting of Martha JP McQuade, Second Vice Chair, presiding, Pleasant S. Brodnax, III, Richard J. Colten, J. Casey Forrester, and lay member Robert W. Carter. The Virginia State Bar ("VSB", the "Bar" or the "bar") was represented by Assistant Bar Counsel Paulo Franco. The Respondent, Carlotta Bernice Thompson ("Thompson"), failed to appear despite all required notices of the date and place of the hearing having been timely sent by the Clerk of the Disciplinary System to the Respondent in the manner prescribed by law, and the Clerk having called for Ms. Thompson three times in all applicable places before the hearing began. The proceedings were recorded and reported by Teresa L. McLean of Chandler & Halasz Court Reporters, Post Office Box 9349, Richmond, Virginia 23227, telephone: (804) 730-1222, after she was duly sworn by the Chair.

The Chair opened the hearing by polling the members of the Board panel as to whether any of them had any personal or financial interest or bias which could, or could be perceived, to affect his or her ability to be impartial in this matter, and each member responded that they did not.

No objection having been filed to same, the Bar's Exhibits A through J were then admitted and the Board heard the Bar's evidence and argument with respect to misconduct in all cases.

I. MISCONDUCT

The Board then recessed to deliberate the alleged rule violations. Upon reconvening, it was announced that, based on clear and convincing evidence, the Board made the following findings of fact and found the following misconduct and Rules violations in each case:

VS B Docket No. 08-032-074710 (Drew):

A. FINDINGS OF FACT

1. On or about October 24, 2007, Complainant Brenda Drew (hereinafter, "Drew") met with Thompson concerning obtaining custody of her granddaughter, who was allegedly being held in Alabama by the child's father, against the wishes of the mother, Drew's daughter. The mother had agreed to give Drew custody of the child.

2. According to Drew, during the meeting, Thompson quoted an attorney's fee of \$5,000 to \$6,000 with a 50% down payment. Drew paid Thompson that day by two checks. One check was in the amount of \$75 and the second check was in the amount of \$2,500. A fee agreement was signed, but Drew did not receive a copy.

3. Subsequently, Drew provided Thompson with the child's birth date, social security card and she ordered a birth certificate from Alabama.

4. On November 5, 2007, Drew sent Thompson an electronic mail message in which she indicated she was seeking follow up on the matter and that she had left three messages for Thompson at her office without a response. She also stated if Thompson did not have the time for the case, she should refund the money and Drew would then get another attorney. Drew included her work, home and cell phone numbers.

5. Thompson called Drew on one occasion.

6. On November 20, 2007, Thompson sent Drew an electronic mail message indicating she continued to play phone tag with the parents of the father, and she drafted a letter to them regarding the return of the child to Virginia.

7. On November 29, 2007, Thompson sent Drew another electronic mail message concerning her efforts to get a court date in Chesterfield County for custody proceedings

8. On December 10, 2007, Drew sent Thompson another electronic mail message asking whether Thompson had gotten anything back from the courts, indicating that Drew was having problems trying to get in touch with the child and that she was told that the child was not with the grandfather. Drew ended the message stating she felt that "we need to locate" the child's whereabouts.

9. On December 13, 2007, Drew sent Thompson another electronic mail message asking Thompson to call her. Drew stated she wanted to "do missing child" on her granddaughter.

10. On January 14, 2008, Drew sent Thompson a letter addressed to her at the Imperial Building, 422 East Franklin Street, Suite 304, in Richmond, Virginia. In the letter, Drew stated she no longer wished to retain Thompson as her attorney in the custody case due to "the lack of communication and response" from Thompson. Drew asked for a full refund of \$2,500. Drew received no response from Thompson to the letter.

11. Drew filed a bar complaint with the Virginia State Bar dated April 8, 2008.

12. On April 23, 2008, the bar's intake department sent a letter to Thompson at her address of record with the bar, Post Office Box 28586, Richmond, VA 23228-8586. In the letter, Assistant Intake Counsel Martelino ("Martelino") enclosed a copy of the bar complaint and stated, in an effort to resolve the problem between Thompson and Drew, that Thompson must communicate with Drew about the status of the case and send a copy of same to the bar. In the letter, Rule 8.1(c) was cited, pursuant to which

Thompson had a duty to respond to the bar's lawful demands for information. A May 3, 2008, deadline was recited in the letter.

13. On May 15, 2008, the bar's intake department sent Thompson another letter, at the same address, because Thompson had not responded to the previous letter. In the letter, Martelino asked Thompson to let the bar know when to expect a response from Thompson, if she intended to respond.

14. On May 20, 2008, the bar received a facsimile transmission from Thompson, which included a cover letter from Thompson to Drew dated May 12, 2008, an invoice and a check, #1008, in the amount of \$562, payable to Drew, which contained the notation, "return of advanced payment."

15. The cover letter, invoice and check indicated Thompson's law office address as 8001 West Broad Street, Richmond, VA 23294-4213.

16. By letter dated May 21, 2008, to her address of record, the intake department informed Thompson, *inter alia*, that the bar had received her response, but the matter was being assigned for further investigation.

17. By letter dated May 21, 2008, to her address of record, the bar sent Thompson a preliminary investigation letter seeking her response to the bar complaint within 21 days. The letter cited Rule 8.1(c) and the duty to comply with the bar's lawful demands for information.

18. On May 22, 2008, the bar received by regular mail the original of the May 12, 2008, facsimile transmission.

19. By letter to Thompson dated June 4, 2008, copied to the bar, Drew responded to Thompson's cover letter with invoice and refund check. Drew stated she did not agree with the invoice and the partial refund since she believed she was due a full refund due to Thompson having "dropped" the case and having failed to respond to attempts to communicate from Drew.

20. Thompson's check in the amount of \$562 payable to Drew was returned for insufficient funds by Wachovia Bank on July 14, 2008.

21. By letter to her address of record dated September 17, 2008, the bar notified Thompson the complaint was being referred to the Third District Committee for a more detailed investigation. The letter cited Rule 8.1(c) and the duty to comply with the lawful demands of the bar for information, including an investigator's lawful demands for information.

22. On September 18, 2008, the bar served Thompson with a subpoena *duces tecum*, at her address of record, for her files, trust account and operating account records pertaining to her representation of Drew in a matter related to custody of and search for a grandchild. The production was due on or before October 9, 2008.

23. The certified mailing of the subpoena *duces tecum* was returned by the U.S. Postal Service "unclaimed."

24. On October 14, 2008, the bar sent Thompson a letter to her address of record by regular mail indicating the subpoena *duces tecum* had been served by certified mail, return receipt requested, and was subsequently returned "unclaimed" and that such a failure to respond could result in an interim suspension of license. Thompson was given until October 24, 2008, to provide the subpoenaed documents to the bar by said date or a notice of noncompliance and request for interim suspension would be filed.

25. On October 29, 2008, a copy of the noncompliance letter was sent by first class mail and certified mail return receipt requested to Thompson's alternative address. Thompson signed the certified mail domestic return receipt on October 31, 2008.

26. On December 5, 2008, Investigator Robert Heinzman, Jr. ("Heinzman") interviewed Thompson. Thompson agreed to honor the outstanding subpoena *duces tecum*.

27. On December 16, 2008, the bar sent Thompson a letter at both her address of record as well as her alternate address confirming her agreement to comply with the outstanding subpoena *duces tecum* in this bar complaint as well as subpoenas *duces tecum* in three other complaints, no later than December 19, 2008.

28. By January 13, 2009, Thompson had failed to honor the subpoena *duces tecum*. The bar filed a Notice of Noncompliance and Request for Interim Suspension with the Clerk of the Disciplinary System. A copy of the notice was sent to Thompson by certified mail, return receipt requested, at both her address of record and her alternate address. In addition, Heinzman personally delivered the pleading to Thompson on January 15, 2009.

29. The certified mailings to Thompson of the Notice of Noncompliance and Request for Interim Suspension were returned to the bar by the postal service with the notation of "unclaimed" on the face of each envelope.

30. On January 27, 2009, the Disciplinary Board entered an order of interim suspension effective that date.

31. On February 11, 2009, Thompson sent a facsimile transmission to Heinzman in response to the subpoena *duces tecum*. The response included Thompson's May 16, 2008, facsimile transmission cover sheet, letter, invoice and check, a transmission verification report, matter notes for the case of the grandchild and a note concerning Amber Alert.

32. The interim suspension was terminated on February 13, 2009.

33. Thompson failed to represent Drew with reasonable and prompt diligence. She failed to communicate with Drew properly. She failed to make good her check number 1008 in the amount of \$562 which was a refund of advanced fees, and thus said fees constituted unreasonable fees held by Thompson. By failing to refund the unearned advanced fees of \$562, Thompson also failed to protect Drew's interests when the representation was ended. Thompson failed to withdraw from the representation of Drew when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. Thompson failed to cooperate with the Virginia State Bar during this matter.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

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.

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.

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (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).

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

VSB Docket No. 08-032-075416 (Askew):

A. FINDINGS OF FACT

34. On or about October 15, 2007, Complainant Leander Askew ("Askew") met with Thompson about obtaining a contested divorce and joint custody of a child. Thompson quoted a total fee of \$2,500 and \$175 for each office visit.

35. Thompson gave Askew a fee agreement in which, *inter alia*, it was stated that Thompson kept record of her time in a case and that the quoted fee was based upon a rate of \$175 per hour.

36. Askew paid Thompson the \$2,500 fee in two payments. The first payment was made on October 24, 2007, in the amount of \$1,200. The second payment was made on January 3, 2008, in the amount of \$1,300. Askew received a receipt for each payment.

37. On October 17, 2007, a Complaint for a one year divorce was filed in the Henrico County Circuit Court on behalf of Askew's former wife by Richard Papcun, Esq., ("Papcun").

38. On November 9, 2007, Thompson sent a letter to Papcun in which she stated that her office had been retained to represent Askew in filing a "fault based" divorce; that she had advised Askew not to accept service and waiver of notice; and that it was anticipated that a pleading in the matter would be filed within seven days.

39. Since Papcun did not handle contested divorces, he withdrew from the representation of Askew's former wife.

40. On December 6, 2007, Thompson and Askew appeared at a hearing in the Henrico County Juvenile & Domestic Relations District Court on the issue of custody. Askew's former wife was told by the court to obtain counsel by the next court date, March 13, 2008.

41. By letter dated March 4, 2008, to Askew, Deborah Costello, Esq. ("Costello") informed him of her representation in the divorce proceedings with which Askew had been served. Enclosed with the letter was a final divorce decree. Costello indicated if Askew signed the decree, it would not be necessary to appear at court on

April 7, 2008, the date on which the decree was noticed for entry. Costello further informed Askew the divorce would be a "no fault" divorce and nothing was being asked for but the divorce itself.

42. According to Costello, as of her March 4, 2008, letter to Askew, Thompson had not made an appearance in the Henrico County Circuit Court divorce case on behalf of Askew.

43. On March 7, 2008, Thompson called Costello regarding the issue of visitation.

44. On March 13, 2008, Thompson and Askew appeared at a hearing in the Henrico County Juvenile & Domestic Relations District Court. Askew and his former wife were awarded joint custody and physical custody was awarded to Askew's former wife. According to Costello, the issue of visitation was resolved out of court that day.

45. At the March 13, 2008, hearing, Thompson notified Costello that Askew was contesting the divorce.

46. On April 11, 2008, a final decree was entered in the divorce based upon the parties having lived separate and apart for more than one year. The decree was not signed by Askew. Neither Askew nor Thompson appeared at the April 7, 2008, hearing when the divorce decree was entered.

47. On May 27, 2008, Askew wrote a letter to Thompson in an attempt to get a copy of an itemized bill and the balance of monies owed to him for "services not rendered during [his] divorce proceedings." In the letter, Askew noted he had provided to Thompson all documents received from the attorney for his former wife. He further stated that after receiving the final decree from the attorney for his former wife, he attempted to contact Thompson several times concerning what was going on in his case. Askew notes he did ultimately talk to Thompson.

48. According to Askew as stated in said letter, Thompson told him his file was at her previous office location at the Massie Law Firm and, therefore, Thompson was unable to do anything. Askew stated he followed up with the Massie Law Firm: "I spoke with Mr. Joseph Massie and he was absolutely clueless as to what you were talking about." Askew further wrote in the letter: "It is obvious by the lapse of time between retaining your services for a contested divorce in October 2007 and receiving a final decree of divorce from my ex-spouse's attorney in May 2008 that there was absolutely nothing done by you on my behalf. Therefore, I am requesting a refund of all monies paid to you, minus the fees for three office visits and two court appearances at your stated rate of \$175/hour."

49. Thompson was interviewed by Heinzman in this matter. During the interview, she stated she never billed Askew for anything she did for him while her office was at the Massie Law Firm; since Askew was charged a "flat fee," he was not due any money; the divorce bill alone was \$2,369; Askew was charged for custody, visitation and child support; although Askew asked for a final bill, Thompson was unable to provide a full bill because that information was in a computer at the Massie Law Firm.

50. Askew filed a bar complaint which was received June 10, 2008.

51. On June 17, 2008, the bar's intake department sent a letter to Thompson at her address of record with the bar, Post Office Box 28586, Richmond, VA 23228-8586. In the letter, Deputy Intake Counsel Fletcher ("Fletcher") enclosed a copy of the bar complaint and stated, in an effort to resolve the problem between Thompson and Askew, Thompson must communicate with Askew about the outcome of his case and respond to his request for a refund, and send a copy of same to the bar. In the letter, Rule 8.1(c) was cited, pursuant to which Thompson had a duty to respond to the bar's lawful demands for information. A June 27, 2008, deadline was recited in the letter. Thompson did not respond to the letter.

52. On July 1, 2008, the bar's intake department sent Thompson another letter, at the same address, because Thompson had not responded to the previous letter. In the letter, Fletcher informed Thompson the complaint was being assigned for further investigation.

53. By letter dated July 2, 2008, to her address of record, the bar sent Thompson a preliminary investigation letter seeking her response to the bar complaint within 21 days. The letter cited Rule 8.1(c) and the duty to comply with the bar's lawful demands for information. Thompson did not respond to the letter.

54. By letter to her address of record dated July 29, 2008, the bar notified Thompson the complaint was being referred to the Third District Committee for a more detailed investigation. The letter cited Rule 8.1(c) and the duty to comply with the lawful demands of the bar for information, including an investigator's lawful demands for information.

55. On July 29, 2008, the bar served Thompson with a subpoena *duces tecum*, at her address of record, for her files and trust account records pertaining to her representation of Leander D. Askew in a divorce. The production was due on or before August 19, 2008.

56. The certified mailing of the subpoena *duces tecum* was returned by the U.S. postal service "unclaimed."

57. On August 22, 2008, the bar sent Thompson a letter to her address of record by regular mail indicating the subpoena *duces tecum* had been served by certified mail, return receipt requested and was subsequently returned "unclaimed," that such a failure to respond could result in an interim suspension of license. Thompson was given until September 5, 2008, to provide the subpoenaed documents to the bar by said date or a notice of noncompliance and request for interim suspension would be filed.

58. Thompson sent to the bar by facsimile transmission a response to the subpoena *duces tecum* on September 5, 2008. The production did not include any trust account records.

59. On September 5, 2008, Thompson phoned Deputy Bar Counsel Hirsch saying she was producing what she had, but she knows there is more in the building where her office was until the building was closed by the landlord. She was told to produce the remaining documents when she got them. No further production was made.

60. On information and belief, Thompson never made an appearance in circuit court in the divorce.

61. Thompson failed to represent Askew with reasonable and prompt diligence. She failed to communicate with Askew properly. Thompson never provided any basis to Askew for having earned the fees paid although she never made an appearance in circuit court. To the extent Thompson did not earn all of the fees paid, the unearned portion constituted unreasonable fees which should have been refunded to Askew. Thompson failed to withdraw from the representation of Drew when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. Thompson failed to cooperate with the Virginia State Bar during this matter.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

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.

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.

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the Rules of Professional Conduct or other law;

- (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).

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

VS B Docket No. 09-032-076423 (Elder):

A. FINDINGS OF FACT

62. Complainant Guy Elder ("Elder") called Thompson and set up an initial appointment for May 19, 2008, to discuss lowering his child support payments and to obtain joint custody. According to Elder, Thompson told him to bring his paperwork and information concerning how often he kept his son and paid child support.

63. Elder went to Thompson's office for the May 19, 2008, appointment; however, Thompson did not keep the appointment. Elder gave her assistant, Wesley Dearing ("Dearing") a check payable to Thompson in the amount of \$300 as a retainer.

64. Elder sent Thompson a text message the following day, and she agreed to meet him at his job at lunch time to discuss the matter. Thompson did not keep the appointment.

65. According to Elder, Thompson set up two or three other appointments, but failed to keep any of them.

66. On July 8, 2008, Elder sent a text message to Thompson saying he realized she was busy and asking for a refund. Thompson responded by text message that she wasn't too busy, but if he wanted a refund, he should provide her a mailing address. Thompson also asked to meet the next day at his work; she did not keep the appointment.

67. According to Elder, he provided Thompson his mailing address although the documents he had provided her contained his mailing address. Elder never received a refund or the return of his documents.

68. According to Elder, Thompson never answered her phone.

69. Elder filed a bar complaint dated August 24, 2008.

70. On August 29, 2008, the bar's intake department sent a letter to Thompson at her address of record with the bar, Post Office Box 28586, Richmond, VA 23228-8586. In the letter Deputy Intake Counsel Fletcher enclosed a copy of the bar complaint and stated, in an effort to resolve the problem between Thompson and Elder, Thompson must respond to Elder's request for a refund and send a copy of same to the bar. In the letter, Rule 8.1(c) was cited, pursuant to which Thompson had a duty to respond to the bar's lawful demands for information. A September 8, 2008, deadline was recited in the letter.

71. On September 10, 2008, the bar's intake department sent Thompson another letter, at the same address, because Thompson had not responded to the previous letter. In the letter, Fletcher asked Thompson to let the bar know when to expect a response from Thompson, if she intended to respond. No response was made to the letter.

72. By letter dated September 24, 2008, to her address of record, the bar sent Thompson a preliminary investigation letter seeking her response to the bar complaint within 21 days. The letter cited Rule 8.1(c) and the duty to comply with the bar's lawful demands for information. No response was made to the letter.

73. By letter dated October 28, 2008, to her address of record, the bar notified Thompson the complaint was being referred to the Third District Committee for a more detailed investigation. The letter cited Rule 8.1(c) and the duty to comply with the lawful demands of the bar for information, including an investigator's lawful demands for information.

74. On October 29, 2008, the bar served Thompson with a subpoena *duces tecum*, at her address of record, for her files and trust and operating account records relating to her representation of Elder in a child support matter. The production was due on or before November 19, 2008.

75. On October 29, 2008, a copy of the subpoena *duces tecum* was sent by first class mail and certified mail, return receipt requested to Thompson's alternate address. Thompson signed the certified mail domestic return receipt on October 31, 2008.

76. The certified mailing of the subpoena *duces tecum* to Thompson's address of record was returned by the U.S. Postal Service "unclaimed."

77. On December 5, 2008, Heinzman interviewed Thompson. Thompson agreed to honor the outstanding subpoena *duces tecum*.

78. On December 16, 2008, the bar sent Thompson a letter at both her address of record as well as her alternate address confirming her agreement to comply with the outstanding subpoena *duces tecum* in this bar complaint, as well as subpoenas *duces tecum* in three other complaints, no later than December 19, 2008.

79. By January 13, 2009, Thompson had failed to honor the subpoena *duces tecum*. The bar filed a Notice of Noncompliance and Request for Interim Suspension with the Clerk of the Disciplinary System. A copy of the notice was sent to Thompson by certified mail, return receipt requested at both her address of record and her alternate address. In addition, Heinzman personally delivered the pleading to Thompson on January 15, 2009.

80. The certified mailings to Thompson of the Notice of Noncompliance and Request for Interim Suspension were returned to the bar by the postal service with the notation "unclaimed" on the face of each envelope.

81. The bar received a facsimile transmission of a letter from Thompson showing a transmission date of January 23, 2009. In the letter, dated December 15, 2008, Thompson stated, *inter alia*, she never represented Elder, she had several conversations with Elder regarding a \$300 retainer and she offered to refund it to Elder if he provided a mailing address to her and she had no further contact with him. No trust account records were provided to the bar.

82. Thompson agreed to meet with Heinzman for an interview on March 17, 2009, at the bar offices at 10:00 a.m. At 9:45 a.m., she called and advised she had no car and could not meet Heinzman. The meeting was rescheduled by agreement for March 19, 2009, at 10:00 a.m. at the bar offices.

83. On March 19, 2009, Thompson failed to appear for the interview and did not answer her telephone.

84. On March 23, 2009, a subpoena was issued by the bar for Thompson's appearance on April 2, 2009, at the bar offices at 10:00 a.m. to be interviewed by Heinzman regarding the instant complaint as well as others. The subpoena was personally served by a Henrico County deputy sheriff on March 30, 2009.

85. On April 2, 2009, Thompson called Heinzman at 8:30 a.m. to say she had no transportation. She also left a similar phone message for Deputy Bar Counsel Hirsch. That day, a conference call occurred among Hirsch, Heinzman and Thompson during which Thompson asked that the interview be conducted on April 6, 2009, at 10:00 a.m. at the bar offices.

86. On April 6, 2009, at about 9:43 a.m., Thompson called Heinzman to say she was borrowing a car, but it had not yet arrived. At 10:39 a.m., Heinzman called Thompson. She told him the person from whom she was borrowing the car still had not arrived. Since Thompson had failed to appear or further call by 11:30 a.m., Heinzman left the bar offices.

87. Thompson failed to appear for an interview pursuant to the March 23, 2009, subpoena.

88. Thompson failed to represent Elder with reasonable and prompt diligence by repeatedly failing to appear for agreed upon appointments with Elder. By doing so, she also failed to communicate with Elder properly. Thompson failed to refund to Elder the amount of \$300 in unearned fees which constituted unreasonable fees received by Thompson since according to Thompson, the representation never began. By failing to refund the unearned fees of \$300, Thompson also failed to protect Elder's interests. Since Thompson provided no trust account records showing the preservation of the \$300, Thompson failed to deposit and hold the advanced fee of \$300 in trust. Thompson failed to cooperate with the Virginia State Bar during this matter. By retaining the \$300 fee for representation that never occurred, Thompson committed a criminal or deliberately wrongful act.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

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.

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.

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:
- (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
 - (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.

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).

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

8.4 Misconduct

It is professional misconduct for a lawyer to:

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

VS B Docket No. 09-032-076797 (David):

A. FINDINGS OF FACT

89. On July 5, 2008, Complainant Euphemia David ("David") fell at the entrance of a grocery store and sprained her foot. She informed the grocery store of the fall the next day.

90. On July 22, 2008, David met Thompson in the lobby of David's employer. Thompson agreed to represent David.

91. Virginia Money ("Money") was the assigned Travelers Property Casualty Company of America ("Travelers") claims representative regarding David's claim.

Travelers received a voice mail message from Thompson on July 30, 2008. Thereafter, Money attempted to contact Thompson by leaving voice mail messages on July 30 and 31, 2008. She also called, but was unable to leave a message on August 1, 2008, because the mail box was full.

92. On August 4, 2008, David sent a fax to Thompson with a copy of a letter she received from the representative assigned to her file.

93. On August 8, 2008, Thompson called Money back, indicating she got Money's voice mail messages but was unable to call Money because of her busy schedule. They scheduled a recorded statement of David for August 21, 2008, which occurred with Thompson on the phone.

94. David sent a facsimile transmission to Thompson on August 27, 2008, asking for the status of her claim.

95. David and Thompson traded electronic mail messages in which, *inter alia*, David asked Thompson to provide her with copies of her documents, and Thompson said she would provide the requested documents.

96. On September 12, 2008, Money sent a letter to Thompson. Money observed that Thompson had not yet sent a letter of representation. Money indicated the investigation by Travelers revealed that their insured was not responsible and had no liability for David's injuries and, therefore, the claim was denied.

97. David sent Thompson an electronic mail message on September 12, 2008, indicating she thought the claim would have been resolved, she needed to know what was going on, and if Thompson did not contact David within 5 days, David would need her file transferred to another attorney. David did not get a response from Thompson to the message.

98. On September 23, 2008, David filed a bar complaint.

99. On October 2, 2008, the bar sent Thompson a preliminary investigation letter seeking her response to the bar complaint within 21 days. The letter was addressed to Thompson's address of record. The letter cited Rule 8.1(c) and the duty to comply with the bar's lawful demands for information. No response was made by Thompson.

100. By letter dated October 16, 2008, to Thompson at her address of record, David terminated Thompson and requested her file documents.

101. On October 28, 2008, the bar sent Thompson a letter addressed to her address of record, informing Thompson the bar complaint had been referred to the Third District Committee for a more detailed investigation. The letter cited Rule 8.1(c) and the duty to comply with the lawful demands of the bar for information, including an investigator's lawful demands for information.

102. On October 29, 2008, the bar served Thompson with a subpoena *duces tecum*, at her address of record, for her files, trust account and operating account records pertaining to her representation of David in an insurance liability claim. The production was due on or before November 19, 2008.

103. The certified mailing of the subpoena *duces tecum* was returned by the U.S. Postal Service marked "unclaimed."

104. On November 14, 2008, David called Money. Money told David she could not talk to her because she was represented by counsel.

105. On November 14, 2008, Money sent a letter to Thompson, at her address of record, enclosing documents received from David including the termination letter. Money asked for an immediate response as to whether Thompson still represented David and whether Thompson had a lien on the matter.

106. In the November 14, 2008, letter, Money also noted that she wanted to inform David of premises medical payments coverage for out of pocket medical cost. She enclosed a medical authorization form for completion and return to her so she could obtain the bills and reports from the treating physician. Finally, Money also indicated she was sending a copy of the letter to David since she had contacted Money directly, and her office had been unable to reach Thompson by phone.

107. Thompson never submitted to Travelers a letter of representation or a letter indicating her representation was terminated.

108. Travelers paid \$312 under the premises medical payments coverage, but continued to deny liability.

109. On January 5, 2009, Money wrote to David enclosing a copy of her September 12, 2008, letter to Thompson denying liability.

110. On January 13, 2009, the bar filed a Notice of Noncompliance and Request for Interim Suspension with the Clerk of the Disciplinary System regarding the outstanding subpoena *duces tecum* in this matter as well as those in three others. A copy of the notice was sent to Thompson by certified mail, return receipt requested at both

her address of record and her alternate address. In addition, Heinzman personally delivered the pleading to Thompson on January 15, 2009.

111. The certified mailings to Thompson of the Notice of Noncompliance and Request for Interim Suspension were returned to the bar by the postal service with the notation of "unclaimed" on the face of each envelope.

112. On January 23, 2009, Thompson responded to the Notice of Noncompliance and Request for Interim Suspension by faxed letter dated December 15, 2008, to the bar referencing VSB Docket Number 09-032-076797 (the instant bar complaint) and a "Brenda Martin." Thompson stated she had never represented Ms. Martin in any capacity and had no information regarding a "Brenda Martin." The Notice did not pertain to any complainant named "Brenda Martin."

113. Thompson agreed to meet with Heinzman for an interview on March 17, 2009, at the bar offices at 10:00 a.m. At 9:45 a.m., she called and advised she had no car and could not meet Heinzman. The meeting was rescheduled by agreement for March 19, 2009 at 10:00 a.m. at the bar offices.

114. On March 19, 2009, Thompson failed to appear for the interview and did not answer her telephone.

115. On March 23, 2009, a subpoena was issued by the bar for Thompson's appearance on April 2, 2009, at the bar offices at 10:00 a.m. to be interviewed by Heinzman regarding the instant complaint as well as two others. The subpoena was personally served by a Henrico County deputy sheriff on March 30, 2009.

116. On April 2, 2009, Thompson called Heinzman at 8:30 a.m. to say she had no transportation. She also left a similar phone message for Deputy Bar Counsel Hirsch. That day, a conference call occurred among Hirsch, Heinzman and Thompson during which Thompson asked that the interview be conducted on April 6, 2009, at 10:00 a.m. at the bar offices.

117. On April 6, 2009, at about 9:43 a.m., Thompson called Heinzman to say she was borrowing a car, but it had not yet arrived. At 10:39 a.m., Heinzman called Thompson. She told him the person from whom she was borrowing the car still had not arrived. Since Thompson had failed to appear or further call by 11:30 a.m., Heinzman left the bar offices.

118. Thompson failed to appear for an interview pursuant to the March 23, 2009, subpoena.

119. Thompson's license to practice law in the Commonwealth of Virginia was suspended as stated in Paragraphs 1 and 2 of this Certification. With respect to the instant case, Thompson's license was not suspended until October 10, 2008, in the week prior to her termination by David's letter of October 16, 2008.

120. Thompson never provided David with her file documents. Thompson failed to represent David with reasonable and prompt diligence. She also failed to communicate with David properly. Thompson failed to withdraw from the representation of David when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. Upon the termination of the representation, Thompson failed to protect David's interests. Thompson failed to cooperate with the Virginia State Bar during this matter.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

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.

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (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).

- (e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to his paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer/client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during course of the representation.

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

VSF Docket No. 09-032-077036 (VSF-Trust Account):

A. FINDINGS OF FACT

121. On or about October 14, 2008, Wachovia notified the bar of a check in the amount of \$1,000 presented against insufficient funds on a trust account in the name of Carlotta B. Thompson, PC, Escrow Account, P.O. Box 28586, Richmond, VA 23228-8586.

122. The trust account check was dated August 8, 2008, was payable to Terry Moore with the notation of "For Retainer" and was signed by Thompson.

123. Thompson was interviewed on February 11, 2009, in this matter by Heinzman. During the interview, Thompson indicated the check was a refund of a fee which she had received from Moore to attend a court hearing three days after she had been retained. She was unable to do so and sent the court a letter giving her available dates for a requested continuance. She also instructed Moore to be in court on the hearing date. The court proceeded with the hearing in her absence.

124. According to Thompson, as of the interview in this matter she had not paid Moore. The check was presented against insufficient funds because the funds paid to her by Moore were not deposited into the trust account, although she thought they had been.

125. Thompson stated that Dearing was responsible for maintaining her escrow account ledger. However, in a previous December 5, 2008, interview, Thompson had indicated that Dearing worked for her from March of 2008 until June of 2008.

126. Thompson said she kept all her escrow account information in a ledger book, that the book only had five transactions in it and was lost when she was evicted from her office at 8001 West Broad Street in Richmond, and that the last deposit she made into her escrow ledger was sometime before October 2008.

127. On October 15, 2008, the Intake Department of the bar sent Thompson a letter at her address of record enclosing the notice from Wachovia. In the letter, Deputy Intake Counsel Fletcher stated Thompson must send a written explanation of what caused the overdraft or "not sufficient funds" situation and what steps Thompson had taken to avoid a recurrence; and the response must be received by the bar by October 22, 2008. Thompson did not respond to the letter.

128. On October 29, 2008, the bar sent a letter to Thompson at her address of record and also copied to a former address on Concourse Boulevard, Glen Allen, VA. In the letter, Thompson was informed the matter had been referred to the Third District

Committee for further investigation. The letter cited Rule 8.1(c) and her duty to comply with the bar's lawful demands for information including the lawful demands of a bar investigator for information. In the letter the bar demanded that Thompson submit a written answer to the complaint within 21 days. Thompson did not respond to the letter.

129. According to Thompson, she did not receive the complaint and, therefore, had not responded to it.

130. Thompson failed to deposit into her trust account the \$1,000 advanced fee regarding Moore and preserve the funds until earned. Thompson failed to maintain complete and required records of her trust account. Thompson failed to cooperate with the bar in this matter. As of the bar interview on February 11, 2009, Thompson had failed to make the August 8, 2008, trust account check good by paying Moore the \$1,000 as refund of the advanced fee. Thompson's failure to preserve the \$1,000 and her failure also to make good on her insufficient funds trust account check constituted a crime or deliberately wrongful act, as well as conduct involving dishonesty and fraud.

B. NATURE OF MISCONDUCT

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

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:
 - (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
 - (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.

- (c) A lawyer shall:
- (3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them; and
- (e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must produce the records and information required by this Rule.
- (1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:
 - (i) a cash receipt journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;
 - (ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;
 - (iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;

- (iv) reconciliations and supporting records required under this Rule;
 - (v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.
- (2) in the case of funds or property held by a lawyer or law firm as a fiduciary subject to Rule 1.15(d), the required books and records include:
- (i) an annual summary of all receipts and disbursements and changes in assets comparable to an accounting that would be required of a court supervised fiduciary in the same or similar capacity. Such annual summary shall be in sufficient detail as to allow a reasonable person to determine whether the lawyer is properly discharging the obligations of the fiduciary relationship;
 - (ii) original source documents sufficient to substantiate and, when necessary, to explain the annual summary required under (i), above;
 - (iii) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

VS B Docket No. 09-032-077496 (Hill) and
VS B Docket No. 09-032-078036 (Law):

A. FINDINGS OF FACT

131. Thompson was retained to represent Complainant D'Andre Hill ("Hill") on criminal charges in Henrico County, Virginia. Hill's mother, Angela Law ("Law") paid Thompson a total of \$3,000 for the representation.

132. The first payment to Thompson by Law was a check dated November 15, 2007, in the amount of \$1,500 payable to the Massie Law Firm. The check was endorsed and made payable to the order of Thompson and negotiated. The second payment to Thompson by Law was a check dated February 22, 2008, in the amount of \$1,000 payable to Thompson and negotiated. The third payment to Thompson by Law was a check dated August 27, 2008, in the amount of \$500, payable to Thompson, and negotiated.

133. Thompson represented Hill at his August 27, 2008, trial. He was convicted on both pending charges.

134. Sentencing was scheduled for November 6, 2008. Thompson did not appear for the sentencing hearing. The court appointed another attorney to represent Hill and sentencing was rescheduled to November 25, 2008.

135. According to Law, she tried to call Thompson repeatedly on November 6, 2008, and did speak to a personal assistant to whom she complained that Thompson had not appeared. According to Law, Thompson did not call or otherwise contact her.

136. Thompson was interviewed in these two bar complaints on January 15, 2009, and February 11, 2009, by Heinzman. Thompson stated she did not appear at the sentencing because her law license was administratively suspended by the Virginia State Bar. She did not notify the presiding judge in Hill's case, Judge Miller, of the fact that her license was suspended because she assumed he already knew it. Thompson said she had been notified of her suspension by Chief Judge Harris and she assumed all of the judges in the Henrico courts knew she was suspended. Thompson said she told Hill she could not appear at sentencing and that his case was going to be continued.

137. Thompson's license to practice law in the Commonwealth of Virginia was suspended as stated in Paragraphs 1 and 2 of this Certification, including November 6, 2008.

138. Thompson simply failed to appear at the November 6, 2008, sentencing on behalf of Hill without seeking leave of court to withdraw or at least inform the court why she could not appear. Thompson failed to represent Hill with reasonable and prompt diligence. Thompson failed to withdraw from the representation of Hill when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. She failed to obtain leave of court to withdraw from the case. Upon her termination of her representation, Thompson failed to protect her client's interests.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable rules of court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.
- (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).

VSJ Docket No. 09-032-077730 (Harper):

A. FINDINGS OF FACT

139. On October 31, 2008, the Circuit Court of Henrico County entered an order appointing Thompson to represent Complainant Donnie S. Harper ("Harper") in a revocation of probation case and continuing the show cause proceeding in the matter to November 13, 2008. The court further directed the clerk to forward an attested copy of the order to Thompson at her address of record.

140. On November 13, 2008, Thompson failed to appear for the show cause proceeding.

141. On November 24, 2008, the court entered an order relieving Thompson and appointing another attorney for the representation of Harper. The show cause proceeding was continued to November 25, 2008.

142. On December 8, 2008, the bar received Harper's bar complaint dated December 4, 2008.

143. On December 19, 2008, the bar sent a letter to Thompson at her address of record. In the letter, Thompson was informed the matter had been referred to the Third District Committee for further investigation. The letter cited Rule 8.1(c) and her duty to comply with the bar's lawful demands for information including the lawful demands of a bar investigator for information. In the letter the bar demanded that Thompson submit a written answer to the complaint within 21 days. Thompson did not respond to the letter within 21 days.

144. Thompson was interviewed by Heinzman in this matter on February 11, 2009. According to Thompson, she did not receive the bar's letter dated December 19, 2008, by mail, but she did receive a copy of the complaint from Heinzman previously. Thompson stated she never received from the court the court appointment for her in the Harper revocation of probation matter. Thompson never spoke with or met Harper.

145. At the February 11, 2009, interview, Thompson stated at a point in time she had been informed by Chief Judge Harris of the Henrico County Circuit Court that her license had been suspended; that she did not notify any other courts of her suspension since she assumed they had already been informed of her suspension.

146. On January 23, 2009, Thompson sent the bar a letter by facsimile transmission regarding the Harper bar complaint. The letter was dated December 30, 2008. In the letter, Thompson stated, *inter alia*, "I can only assume that [Harper] was appointed to me at a time that my license to practice law was suspended...During the time my license was suspended, I did not have any interaction with the Courts or any clients."

147. Thompson's license to practice law in the Commonwealth of Virginia was suspended as stated in Paragraphs 1 and 2 of this Certification, including the period from October 31, 2008 until November 24, 2008.

148. Thompson did not take appropriate steps to have her name removed from the court appointment list in the County of Henrico Circuit Court during the suspension of her license.

149. Upon her appointment to the Harper matter, Thompson failed to handle the matter diligently by notifying the court that she was unable to represent Harper due to her license suspension. She also failed to seek leave of court to withdraw from the representation. Thompson failed to withdraw from the representation of Harper when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. Thompson did not timely respond to the bar's December 19, 2008, preliminary investigation letter.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the Rules of Professional Conduct or other law;

- (c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable rules of court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

VSF Docket No. 09-032-077797 (Coppedge):

A. FINDINGS OF FACT

150. On or about December 3, 2007, Complainant Anthony Coppedge ("Coppedge") met and retained Thompson to represent him in a pending show cause child support matter in the County of Chesterfield Juvenile & Domestic Relations District Court, case number JA 037388-01-05. The agreed upon fee was \$1,000.

151. Coppedge paid Thompson \$500 in cash on December 3, 2007, \$400 in cash on January 7, 2008, and \$100 in cash on January 14, 2008. He received a Massie Law Firm receipt for each payment. The last receipt reflected the fees were paid in full.

152. By letter dated December 13, 2007, to the court, Thompson stated she was unavailable for a December 26, 2007, hearing and asked that the matter be set for a one hour contested time frame and gave her available dates.

153. On December 26, 2007, the matter was continued on Thompson's motion to February 22, 2008.

154. By letter to the court dated February 14, 2008, Thompson stated she was unavailable on February 22, 2008, and she gave her available dates.

155. By letter to Coppedge dated February 21, 2008, Thompson informed Coppedge of a May 2, 2008 hearing date.

156. On March 19, 2008, the opposing party noted her unavailability on May 2, 2008, and asked for a continuance. The case was rescheduled for April 2, 2008.

157. By letter to the court dated April 1, 2008, Thompson noted her unavailability on April 2, 2008, because she was the duty attorney at the City of Richmond Juvenile and Domestic Relations District Court on that date, and she gave her available dates.

158. In May of 2008, Coppedge received notice that Thompson had moved to a new office address at 8001 West Broad Street, Richmond, VA.

159. By letter dated May 14, 2008, to Coppedge, Thompson confirmed a June 6, 2008 trial date.

160. On June 6, 2008, Thompson appeared as counsel with Coppedge. Coppedge was found in contempt of court, and the case was continued to November 5, 2008.

161. Thompson failed to appear at the November 5, 2008, hearing date, and the matter was continued to December 10, 2008.

162. On November 6, 2008, the court clerk sent a memo to Thompson informing her the case was continued for Thompson to appear with Coppedge.

163. On December 3, 2008, Coppedge retained Janet Brown, Esq. [Brown], to represent him in the case. Brown appeared with Coppedge on December 10, 2008.

164. By letter dated December 16, 2008, Brown wrote Thompson, *inter alia*, to see if Thompson was willing to refund to Coppedge any of the funds he had paid to Thompson since she did not represent him to the end of his case. Thompson did not respond to the letter.

165. On December 12, 2008, the bar received a bar complaint from Coppedge dated November 22, 2008.

166. On December 16, 2008, the bar sent Thompson a letter addressed to her at her address of record and to her alternate address. In the letter, Thompson was informed that the matter was being referred to the Third District Committee for further investigation. In the letter, the bar demanded that Thompson submit a written answer to the complaint within 21 days. The letter cited Rule 8.1(c) and indicated Thompson's duty to comply with the bar's lawful demands for information; the letter also informed

Thompson that a bar investigator's request for information constituted such a lawful demand. Thompson did not respond to the letter.

167. Thompson agreed to meet with Heinzman for an interview on March 17, 2009, at the bar offices at 10:00 a.m. At 9:45 a.m., she called and advised she had no car and could not meet Heinzman. The meeting was rescheduled by agreement for March 19, 2009, at 10:00 a.m. at the bar offices.

168. On March 19, 2009, Thompson failed to appear for the interview and did not answer her telephone.

169. On March 23, 2009, a subpoena was issued by the bar for Thompson's appearance on April 2, 2009, at the bar offices at 10:00 a.m. to be interviewed by Heinzman regarding the instant complaint as well as two others. The subpoena was personally served on Thompson by a Henrico County deputy sheriff on March 30, 2009.

170. On April 2, 2009, Thompson called Heinzman at 8:30 a.m. to say she had no transportation. She also left a similar phone message for Deputy Bar Counsel Hirsch. That day, a conference call occurred among Hirsch, Heinzman and Thompson during which Thompson asked that the interview be conducted on April 6, 2009, at 10:00 a.m. at the bar offices.

171. On April 6, 2009, at about 9:43 a.m., Thompson called Heinzman to say she was borrowing a car but it had not yet arrived. At 10:39 a.m., Heinzman called Thompson. She told him the person from whom she was borrowing the car still had not arrived. Since Thompson had failed to appear or further call by 11:30 a.m., Heinzman left the bar offices.

172. Thompson failed to appear for an interview pursuant to the March 23, 2009, subpoena.

173. Thompson's license to practice law in the Commonwealth of Virginia was suspended as stated in Paragraphs 1 and 2 of this Certification, including the date of November 5, 2008.

174. Thompson failed to represent Coppedge with reasonable and prompt diligence. Thompson failed to seek leave of court to withdraw from the representation of Coppedge and notify the court that she could not appear while suspended. Thompson failed to withdraw from the representation of Coppedge when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. Thompson failed to protect the interests of Coppedge. Thompson failed to cooperate with the bar in this matter.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable rules of court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.
- (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).

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

VS B Docket No. 09-032-078520 (Hammond):

A. FINDINGS OF FACT

175. On November 24, 2008, County of Henrico Circuit Court Judge Catherine C. Hammond conducted a hearing in an appeal of a custody dispute.

176. Thompson appeared in the hearing as counsel for one of the parties.

177. At the beginning of the hearing, Judge Hammond asked Thompson in private whether her license was in good standing. According to Hammond, Thompson's reply was that she had owed some fees, but that she had sent the funds and "it was all cleared up." Based upon Thompson's representation to the court, Hammond proceeded with the hearing.

178. On November 25, 2008, Judge Hammond asked her assistant to contact the Virginia State Bar concerning Thompson's license.

179. Ms. Balch, membership director of the bar, wrote to Judge Hammond on December 2, 2008 advising that Thompson's license had not been reinstated.

180. By letter dated February 17, 2009, Judge Hammond reported the above facts to the bar.

181. On February 23, 2009, the bar sent Thompson a letter addressed to her at her address of record. In the letter Thompson was informed that the matter was being referred to the Third District Committee for further investigation. In the letter, the bar demanded that Thompson submit a written answer to the complaint within 21 days. The letter cited Rule 8.1(c) and indicated Thompson's duty to comply with the bar's lawful demands for information; the letter also informed Thompson that a bar investigator's request for information constituted such a lawful demand. Thompson did not respond to the letter.

182. Thompson agreed to meet with Heinzman for an interview on March 17, 2009, at the bar offices at 10:00 a.m. At 9:45 a.m., she called and advised she had no car and could not meet Heinzman. The meeting was rescheduled by agreement for March 19, 2009 at 10:00 a.m. at the bar offices.

183. On March 19, 2009, Thompson failed to appear for the interview and did not answer her telephone.

184. On March 23, 2009, a subpoena was issued by the bar for Thompson's appearance on April 2, 2009, at the bar offices at 10:00 a.m. to be interviewed by

Heinzman regarding the instant complaint as well as two others. The subpoena was personally served on Thompson by a Henrico County deputy sheriff on March 30, 2009.

185. On April 2, 2009, Thompson called Heinzman at 8:30 a.m. to say she had no transportation. She also left a similar phone message for Deputy Bar Counsel Hirsch. That day, a conference call occurred among Hirsch, Heinzman and Thompson during which Thompson asked that the interview be conducted on April 6, 2009, at 10:00 a.m. at the bar offices.

186. On April 6, 2009, at about 9:43 a.m., Thompson called Heinzman to say she was borrowing a car, but it had not yet arrived. At 10:39 a.m., Heinzman called Thompson. She told him the person from whom she was borrowing the car still had not arrived. Since Thompson had failed to appear or further call by 11:30 a.m., Heinzman left the bar offices.

187. Thompson failed to appear for an interview pursuant to the March 23, 2009, subpoena.

188. Thompson's license to practice law in the Commonwealth of Virginia was suspended as stated in Paragraphs 1 and 2 of this Certification, including the date of November 24, 2008.

189. Thompson's representation to Judge Hammond regarding the status of her law license amounted to a false statement of fact to a tribunal. The representation to Judge Hammond also constituted her presentation of evidence to the court that Thompson knew or should have known was false. It further amounted to a deliberately wrongful act, amounting to dishonesty, fraud, deceit and misrepresentation.

190. Thompson failed to represent her client in this matter with reasonable diligence and promptness. She failed to seek leave of court to withdraw since her license was suspended. Thompson failed to withdraw from the representation when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. Thompson failed to cooperate with the bar during its investigation.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the Rules of Professional Conduct or other law;

3.3 Candor Toward the Tribunal

- (a) A lawyer shall not knowingly:
 - (1) make a false statement of fact or law to a tribunal;
 - (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.

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

8.4 Misconduct

It is professional misconduct for a lawyer to:

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

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

VSB Docket No. 10-032-080899 (VSB):

A. FINDINGS OF FACT

191. Thompson represented Wright regarding a felony charge pending in the Juvenile & Domestic Relations District Court in Montgomery County, Virginia.

192. Wright had previously been appointed the legal services of Mark Anderson, Esq. ("Anderson") in the case when Thompson was retained for the representation.

193. On or about January 27, 2009, Thompson faxed a substitution order to the court which she and Anderson had endorsed. On or about the same date, she also faxed to the court a Motion for Discovery and Inspection.

194. One of the hearing dates in the Wright case was April 10, 2009, at 3 p.m. Thompson failed to appear at the hearing.

195. On May 13, 2009, the court issued a Show Cause Summons (Criminal) against Thompson to show cause why pursuant to Virginia Code Section 18.2-456 she should not be imprisoned, fined or otherwise punished for failure to appear at an April 10, 2009, hearing at 3:00 p.m. for trial in the Wright case. The summons required Thompson's appearance on June 25, 2009, at 2 p.m.

196. The hearing date of June 25, 2009, at 2 p.m. was also a hearing date and time in the case. On that date, Thompson appeared in the case and was removed. Anderson was again appointed to represent Wright.

197. On August 20, 2009, the show cause summons was heard. Thompson was present and waived counsel. She did not contest guilt, and the court found her guilty as charged. Thompson was fined \$250 and given 10 days in jail, said time suspended, conditioned upon her being of good behavior, keeping the peace and paying fines, costs and fees. The court set bond on appeal at \$1,000 with security.

198. On August 20, 2009, Thompson signed an acknowledgement of suspension of her driver's license effective January 20, 2010, for failure to pay all or part of her fines, costs and fees totaling \$331. Thompson also signed a petition to pay said sum to the court in one deferred payment.

199. The Clerk ordered Thompson to pay the \$331 on or before January 20, 2010. Upon Thompson's failure to pay the \$331, the court sent the Virginia Department of Motor Vehicles a notice to suspend Thompson's driver's license. As of May 11, 2010, Thompson had not paid the sum of \$331 to the court.

200. On September 11, 2009, the bar sent Thompson a letter addressed to her at her address of record. In the letter, Thompson was informed that the matter was being referred to the Third District Committee for further investigation. In the letter, the bar demanded that Thompson submit a written answer to the complaint within 21 days. The letter cited Rule 8.1(c) and indicated Thompson's duty to comply with the bar's lawful demands for information; the letter also informed Thompson that a bar investigator's request for information constituted such a lawful demand. Thompson did not respond to the letter.

201. Thompson's license to practice law in the Commonwealth of Virginia was suspended as stated in Paragraphs 1 and 2 of this Certification, including the date of April 10, 2009.

202. Thompson failed to represent Wright with reasonable diligence and promptness. She failed to appear at the trial in Wright's case. Thompson failed to seek leave of court to withdraw from the case due to her suspension. She failed to notify the court of her suspension. Thompson failed to withdraw from the representation when continuing the representation amounted to engaging in violation of one or more provisions of the Virginia Rules of Professional Conduct. Thompson failed to cooperate with the bar during its investigation. Thompson committed a crime or a deliberately wrongful act.

B. NATURE OF MISCONDUCT

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

1.3 Diligence

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

1.16 Declining or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable rules of court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.

8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.

II. DISPOSITION

After announcing the misconduct found, the Board heard the evidence and argument presented with respect to sanctions or mitigating or aggravating circumstances. The Board then recessed to deliberate the issue of an appropriate sanction. After due deliberation, the Board reconvened and the Chair announced the Board's decision as revocation effective immediately.

Accordingly, and in conformance with the Board's Summary Order entered December 9, 2010, it is ORDERED that the Respondent Carlotta Bernice Thompson's

licensed to practice law in the Commonwealth and hereby is revoked as of December 9, 2010.

It is further ORDERED that the 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 her license to practice law in the Commonwealth of Virginia, to all clients for whom she is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. She shall also make appropriate arrangements for the disposition of matters currently in her care in conformity with the wishes of each client. She shall give such notice within fourteen (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. Within sixty (60) days of the effective date of revocation, she shall also furnish proof to the Bar 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 the revocation, she shall submit an Affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar.

It is further ORDERED that 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 a hearing before a three-judge court.

It is further ORDERED that the Respondent's license shall not be reinstated unless and until the Respondent has fully complied with the provisions of Part 6, Section IV, Paragraph 13-25 of the Rules of the Supreme Court.

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

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Order, by certified mail, to the Respondent Carlotta Bernice Thompson at her last address of record with the Virginia State Bar which is Carlotta B. Thompson, P.C., P.O. Box 28586, Richmond, Virginia 23228-8586, and by regular or first class mail to her alternate address, 206 Portland Place, Hubert, North Carolina 28539, and shall also hand-deliver a copy to Paulo Franco, Assistant Bar Counsel, at 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 18th day of January, 2011.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Martha JP McQuade, Second Vice Chair, Presiding