

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
KEITH HAMNER WALDROP

VS  
VSB DOCKET NOS. 15-070-101516  
15-070-101973  
16-070-103348

**ORDER OF SUSPENSION**

**THIS MATTER** came on to be heard on August 26, 2016, before a panel of the Disciplinary Board consisting of William H. Atwill, Chair; Sandra L. Havrilak; R. Lucas Hobbs; Lisa A. Wilson; and Nancy Bloom, Lay member. The Virginia State Bar was represented by Prescott L. Prince, Assistant Bar Counsel. The Respondent, Keith Hamner Waldrop (hereinafter “Respondent”), appeared in person and represented himself. Jennifer L. Hairfield, Chandler & Halasz, court reporter, P.O. Box 9349, Richmond, Virginia, 23227, 804-730-1222, after being duly sworn, reported the hearing and transcribed the proceedings. The Chair polled the members of the Board Panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative.

The matter came before the Board on the District Committee Determination for Certification by the Seventh District Committee.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System, Barbara S. Lanier, in the manner prescribed by the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18.

**CERTIFICATION (COUNTS I AND II)**

The Certification charged violations of the following provisions of the Virginia Rules of Professional Conduct:

**RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

**CERTIFICATION (COUNT III)**

The Certification charged violations of the following provisions of the Virginia Rules of Professional Conduct:

**RULE 1.3    Diligence**

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.
- (b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

**RULE 1.4    Communication**

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

**I. FINDINGS OF FACT (COUNTS I AND II)**

VSB Exhibits 1-13 were admitted without objection. The Bar and Respondent entered into a Stipulation of Facts, admitted as Joint Exhibit 1, without objection. Accordingly, based on the Virginia State Bar exhibits and the Joint Exhibit, the Board makes the following findings of fact on the basis of clear and convincing evidence:

1. At all times relevant hereto, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been Post Office Box 268, Goochland, Virginia 23063-0268. The Respondent received proper notice of this proceeding as required by Part Six, § IV, ¶ 13-12 C. and 13-18 C. of the Rules of Virginia Supreme Court.

**Docket Nos. 16-070-103348 (VSB) and 15-070-101516 (Anonymous Complainant)**

3. On August 29, 2014, a three-judge court sitting by designation of the Supreme Court of Virginia pursuant to Va. Code §54.1-3935 suspended Kenneth W. Paciocco's ("Paciocco") license to practice law in the Commonwealth of Virginia for three years, effective September 15, 2014.
4. Respondent and Paciocco had attended law school together. They were close friends throughout law school and had maintained close social contact since law school. Respondent considered Paciocco to be a close personal friend. Additionally, Respondent and Paciocco conferred over the years concerning various cases and legal issues in their respective offices. Respondent believed that Paciocco enjoyed a respected reputation in the legal community, particularly in the practice areas of bankruptcy and personal injury law. Respondent had no reason to suspect that Paciocco was not an effective and ethical attorney.
5. Upon being suspended from the practice of law, Paciocco sought Respondent's assistance in completing outstanding bankruptcy cases, and Paciocco requested Respondent's assistance in disbursing personal injury settlements to clients and lienholders on cases which Paciocco had settled. As is further detailed herein, Paciocco made significant misrepresentations to Respondent to enlist Respondent's assistance. Respondent relied on his long association with Paciocco and did not question or investigate the representations of Paciocco.

**Bankruptcy Cases**

6. Paciocco told Respondent that he had substantially completed some bankruptcy cases and awaited fees to file the petitions. Paciocco asked Respondent to attend the 341(a) meetings of creditors in these outstanding bankruptcies for a fee of \$200.00 to be paid by Paciocco to Respondent. Respondent agreed to attend these meetings in order to assist Paciocco in closing his open bankruptcy cases. Respondent asserts that Paciocco volunteered to pay Respondent the sum of \$200.00 to attend the 341(a) Meeting of Creditors and Respondent accepted that sum. Respondent further asserts, however, that he would have performed these services for Paciocco at no charge as it was Respondent's sole motive to assist Paciocco in closing his affairs and Respondent had no pecuniary motive in assisting Paciocco.
7. Respondent had not practiced in Bankruptcy Court for approximately ten years and was unfamiliar with the new procedures established by the Court. Nevertheless, Respondent did not take steps to familiarize himself with these new procedures.
8. Respondent did not have access to the Bankruptcy Court's Case Management/Electronic Case Filing (CM/ECF) System, nor had Respondent ever applied for CM/ECF training.

9. On September 18, 2014, three days after Paciocco's suspension took effect, Paciocco's assistant, Mary Monahan, obtained a CM/ECF identification number for Respondent, who signed the CM/ECF application. Respondent acknowledges that he is not generally knowledgeable about the access of computer systems and that he did not know nor did he take steps to learn how to access his CM/ECF account.
10. The Bankruptcy Court's CM/ECF Policy 2(D)(2) provides:

Any password issued for the ECF System shall be used exclusively by the User to whom the password is assigned and any employee to whom proper authorization is given. A User will not knowingly permit a password to be used by anyone not so authorized. Use of a login and password constitute the official signature of the User on all documents filed.

Due to his unfamiliarity with the CM/ECF system and the rules of the Bankruptcy Court regarding the use of such systems, Respondent was not familiar with this provision of the Court's policy.

11. Respondent did not supervise the use of his CM/ECF number, nor did Respondent realize that Paciocco was representing clients in bankruptcies which had not been filed prior to his suspension, but which were, in fact, being filed by Paciocco's assistant in Respondent's name months after Paciocco's suspension. Respondent would state that he did review the Schedules of Assets and Liabilities in the Shanika F. Booker ("Booker") and Barbara D. Slater ("Slater") Petitions in order to consider the issues that he expected to be addressed at the 341(a) Meeting of Creditors. Respondent admits that he did not review the portions of the Petitions that provided that Respondent was receiving the attorney's fees in each case.
12. While Respondent was identified as counsel of record on the bankruptcy filings of Booker, Slater, and Diane H. Clemons ("Clemons"), all filed on or after April 2015, Respondent did not act as their counsel. Respondent did not prepare their bankruptcy petitions or filings or disclosures. Paciocco's assistant, Mary Monahan, filed the bankruptcies in Respondent's name. Notwithstanding the fact that his license was suspended, Paciocco acted as the clients' lawyer. Respondent's only role in the Booker and Slater matters was to represent these clients at the 341(a) Meetings of Creditors in May 2015. At that time, the U.S. Trustee discovered that, while Respondent was listed as Booker's and Slater's counsel on their bankruptcy filings, Respondent was not, in fact, acting as their counsel. The U.S. Trustee also learned that, contrary to the disclosures of fees in the Booker and Slater bankruptcies, Respondent did not receive the full fees. Thereafter, the U.S. Trustee issued Orders to Show Cause against Respondent and Paciocco.
13. Respondent did not prepare Clemons's filings or do any work on her behalf. In June 2015, Respondent advised Clemons that Paciocco's license was suspended. Clemons requested that Respondent return her fee as she sought to hire new counsel. Paciocco had tendered Clemons's fee to Respondent, and Respondent

returned the fee to Clemons, who hired new counsel. Respondent never met Clemons until the Show Cause hearings in July 2015.

14. When Respondent learned that Paciocco had filed the Petition on behalf of Clemons after his license to practice law was suspended, Respondent took the initiative to contact Clemons to explain the circumstances and apologize that this incident had occurred. Paciocco came to Respondent's office and tendered to Respondent the sum of \$2,040.00 for fees and expenses relating to the Clemons' case and the sum of \$1,720.00 for another bankruptcy client, Mary Oliverz ("Oliverz"). During that meeting, Paciocco requested that Respondent pass the money through his (Respondent's) trust account and pay the money back to Paciocco. Respondent advised Paciocco that he would not participate in any way in these matters and, over Paciocco's objections, Respondent secured the funds in his trust account and declined to return them to Paciocco. On several occasions thereafter Paciocco demanded that Respondent return the funds to Paciocco. Respondent contacted Clemons and Oliverz to explain the situation regarding his association with Paciocco and refunded in full the funds to each party. Additionally, at the meeting with Paciocco at Respondent's office, Paciocco suggested that Clemons would say what she was instructed to say as to whom she had paid the money to for filing the Bankruptcy Petition. Respondent advised Paciocco that he would not allow Clemons to commit perjury or engage in bankruptcy fraud.

#### **Show Cause Motions against Respondent in Bankruptcy Court**

15. In May and July 2015, the United States Trustee filed and served on Respondent three motions to show cause against Respondent and Paciocco in the Booker, Slater, and Clemons matters.
16. The Court issued the three show cause orders and consolidated the matters into a single Miscellaneous Proceeding.
17. On July 15, 2015, the Bankruptcy Court held a consolidated evidentiary hearing on the Miscellaneous Proceeding.
18. At the July 15, 2015, hearing Respondent testified as follows:
  - a. It was not until May 2015, when Respondent spoke with Clemons that Respondent became aware that Paciocco was filing new bankruptcy cases. Respondent previously understood that he was helping Paciocco wind down bankruptcy cases that Paciocco had filed prior to his September 2014 suspension.
  - b. Respondent did not review any of the bankruptcy cases which Paciocco filed using Respondent's CM/ECF identification number prior to the date that Paciocco or his assistant filed these cases.

- c. Respondent did not authorize Paciocco to file any new cases under Respondent's name.
  - d. Respondent never employed Paciocco as a paralegal, nor did Respondent supervise Paciocco's work.
  - e. Respondent never authorized Paciocco to use his letterhead stationery in any capacity.
19. At the hearing, Booker, Slater, and Clemons testified as follows:
- a. They did not understand what was happening in their bankruptcy cases.
  - b. They were unaware of the relationship between Respondent and Paciocco.
  - c. Paciocco collected information and documentation from them, explained to them the differences between the relief available under Chapters 7 and 13 of the Bankruptcy Code, provided them with a pamphlet providing information on the bankruptcy process, and used the information obtained from them to prepare their bankruptcy filings (petitions, schedules, and statements of affairs). Paciocco also advised them regarding available exemptions.
20. As a result of Respondent's actions in the above cases, Respondent voluntarily withdrew from practice in the U.S. Bankruptcy Court for the Eastern District of Virginia. Respondent may seek re-admission after notice and a hearing. Respondent was also required to take six hours of Continuing Legal Education and to reimburse Booker and Slater the \$200.00 in fees he received from each, and to pay fines to both Booker and Slater.
21. Respondent has completed the required CLE. He has also paid Booker and Slater the monies to which he was ordered to pay notwithstanding the fact that Respondent himself filed a Chapter 7 Bankruptcy and has suffered significant personal medical issues.

### **Personal Injury Cases**

22. In addition to the bankruptcy cases, Paciocco asked Respondent if he could use Respondent's trust account to deposit settlement checks for personal injury cases he settled at or prior to the time of his suspension. Paciocco sought to use Respondent's trust account to disburse the funds to the clients, himself, and lienholders.
23. Paciocco also communicated with clients and insurers purporting to be Respondent's paralegal. Paciocco was never Respondent's paralegal, and Respondent never employed Paciocco in any capacity. Respondent did not authorize Paciocco to use his letterhead or to settle claims or communicate with

insurers, lienholders, the Office of the Attorney General (OAG), or anyone on Respondent's behalf.

### **William Garland**

24. Paciocco represented William Garland ("Garland") for claims arising out of two separate 2013 car accidents. In December 2014, well after his suspension was effective, Paciocco negotiated a \$50,000.00 settlement for Garland's claims arising from the Second Accident.
25. On December 12 and 23, 2014, in increments of \$25,000.00 each, Paciocco caused the \$50,000.00 in settlement funds for Garland to be deposited in Respondent's trust account.
26. In December 2014, Paciocco's attorney's fee was disbursed to Paciocco out of Respondent's trust account.
27. The Medical College of Virginia Hospital (MCVH) had a \$46,671.10 lien on the \$50,000.00 settlement.
28. Notwithstanding his suspension, Paciocco attempted to negotiate the lien with the OAG, counsel for MCVH.
29. The OAG subsequently became aware that Paciocco's license had been suspended in September 2014 and did not respond to Paciocco regarding settlement. Instead, by letters dated March 6 and 9, 2015, the OAG wrote to Garland, with a copy to Paciocco, requesting direction on how to proceed since Paciocco could not negotiate or settle claims or liens on Garland's behalf in light of his suspension.
30. Respondent subsequently contacted Garland and prepared a letter, signed by Garland, advising the OAG that Respondent (whom Garland had never met) was his counsel.
31. Subsequent to the sending of the letter to the OAG, Respondent did meet with Garland and spent significant time and effort, without receiving any personal compensation to assist Garland in resolving the lien.

### **Yolanda Green**

32. Prior to Paciocco's suspension Yolanda Green ("Green") retained Paciocco to represent her for injuries sustained in a December 7, 2013, car accident.
33. By letter dated November 13, 2014, Paciocco wrote to the insurer, purporting to be Respondent, and represented that he (Paciocco) was Respondent's paralegal and asked that the insurer contact him (Paciocco) to discuss settlement. Respondent

did not authorize Paciocco to send this or any letters in any cases as Respondent's agent or paralegal.

34. Paciocco settled the case, and on December 5, 2014, Paciocco either deposited or caused to be deposited the settlement check into Respondent's trust account. The settlement funds were disbursed in accordance with Paciocco's instructions, and Paciocco's full fee was disbursed to Paciocco.

### **Lanny Jones**

35. In September 2013, Lanny Jones ("Jones") was in a car accident and hired Paciocco to represent him for a 1/3 contingency fee.
36. In September 2014, Paciocco had not settled Jones's case.
37. In January and February 2015, Paciocco sent letters to the insurer stating that Paciocco was Respondent's paralegal. Respondent did not authorize and was unaware of these communications.
38. In April 2015, Paciocco negotiated a settlement, and on April 17, 2015, \$25,000.00 in settlement funds received by Paciocco on Jones's behalf was deposited into Respondent's trust account. In April 2015, Paciocco received his full attorney's fee from this settlement. All liens and other issues were not resolved at this time. Respondent met with Jones and had numerous telephone calls with Jones and expended substantial time in settling Medicare liens on Jones' file. Respondent received no personal compensation for this work.

### **Bennie Williams**

39. On April 1, 2014, Paciocco agreed to represent Bennie Williams ("Williams") for injuries sustained in a March 2014 accident for a 1/3 contingency fee.
40. In December 2014, Paciocco negotiated a \$100,000.00 settlement on Williams's behalf.
41. In January 2015, Respondent caused the \$100,000.00 to be deposited into Respondent's trust account.
42. Paciocco prepared a disbursement sheet, and, in January 2015, all settlement funds were disbursed from Respondent's trust account according to Paciocco's instructions.
43. In January 2015, Paciocco received his full attorney's fee of \$33,333.33. At Paciocco's request, Respondent or his staff disbursed Paciocco's fee in three separate checks for \$9,000.00 and one check for \$6,333.33.

### **Cecelia Davis**

44. In March 2014, Cecelia Davis (“Davis”) retained Paciocco to represent her for injuries she sustained in the March 2014 car accident for a 1/3 contingency fee.
45. By letter dated January 13, 2015, Paciocco, on Respondent’s letterhead and apparently, but not actually, signed by Respondent, advised the insurer that Respondent had taken over the handling of the Davis claim and provided an analysis of the claim. Paciocco, as Respondent, suggested a settlement amount which he would recommend.
46. In February 2015, Paciocco settled the case.
47. By letter dated February 24, 2015, to Respondent, the insurer provided a settlement check in the amount of \$12,500.00 and a release.
48. On March 10, 2015, the settlement check was deposited into Respondent’s trust account, and funds were disbursed at Paciocco’s instruction.
49. In March 2015, Paciocco received his full attorney’s fee from Respondent’s trust account.

### **Lance Carter**

50. In July 2012, Lance Carter (“Carter”) retained Paciocco to represent him in a personal injury matter for a 1/3 contingency fee.
51. Paciocco settled the case for \$50,000.00 in November 2014, two months after his suspension.
52. The insurer provided Paciocco a check in the amount of \$39,388.21, the \$50,000.00 minus a child support lien.
53. On November 13, 2014, the Carter settlement of \$39,388.21 was deposited into Respondent’s trust account.
54. From November 13, 2014, to March 4, 2015, the Carter settlement funds were disbursed at Paciocco’s direction.
55. By check dated November 17, 2014, Paciocco received his full one-third contingency fee of \$16,666.66.
56. By checks dated November 25, 2014, Paciocco received an additional \$1,830.00, and Respondent received \$200.00.

## **II. FINDINGS OF FACT (COUNT III)**

**Docket No. 15-070-101973 (Complainant Deirdre L. Havens)**

57. In September 2013, Deirdre L. Havens retained Respondent for the sum of \$2,000.00 to represent her in a child custody matter in Chesterfield County Juvenile & Domestic Relations Court.
58. At the time Respondent was retained, he advised Havens that he could not appear for the contested custody date that had previously been scheduled for November 26, 2013.
59. As Respondent and Havens agreed, Havens appeared in court on September 25, 2013 without Respondent and provided the Court with a letter from Respondent requesting that the previously scheduled November 26, 2013 court date be continued to a date available for Respondent.
60. In furtherance of Respondent's request for a continuance and in accordance with Respondent's letter dated September 25, 2013, the contested court date was scheduled for January 6, 2014. This date was verified with Respondent by the Chesterfield J & D R Court clerk's office.
61. Prior to Respondent being retained by Havens, opposing counsel had propounded Discovery with a deadline for the responses to discovery being September 30, 2013.
62. Opposing counsel granted Respondent an extension to October 4, 2013 to provide discovery. Respondent attempted to obtain responses from Havens and worked with her to prepare the responses, but the responses were not timely submitted.
63. Respondent did not respond to opposing counsel's request for available dates for a Motion to Compel and for attorney's fees. Thereafter, opposing counsel filed a Motion to Compel and set a hearing on the Motion to Compel on December 10, 2013.
64. On October 16, 2013, without consulting with Respondent, opposing counsel set an expedited hearing for October 21, 2013, to prevent an allegedly invasive forensic examination on the parties' minor child.
65. On October 21, 2013, Respondent forwarded, by fax transmittal, a letter request for a continuance. In the letter, Respondent asserted that the hearing date was scheduled without consulting him and that he was not available to appear in Court on that day due to a previously scheduled appearance in another court. Respondent's letter did not provide any continuance dates and the Clerk's Office was not able to obtain available continuance from Respondent's office. The continuance request was therefore denied. The Court granted the motion to prevent the forensic examination and temporary custody was transferred to the father.

66. Respondent neither appeared at the December 10, 2013 hearing on the Motion to Compel Discovery, nor did he send a letter to the Court advising the Court that he was unable to appear on that date.<sup>1</sup> At the hearing, the following relief was granted to the opposing party: The Motion to Compel was granted; the Motion to deem admissions was granted; and the Motion for custody/visitation evaluation costs was granted.
67. Respondent did not appear in Court for the January 6, 2014 custody hearing due to a scheduling conflict. Notwithstanding the fact that he was aware of the scheduling conflict prior to the January 6, 2014 hearing, Respondent failed to take any action to attempt to change the Court date. Custody of the minor child was awarded to the opposing party (the child's father).
68. Havens appealed the January 6, 2014 Order of the Chesterfield J & D R Court and a hearing was set in the Circuit Court for May 21, 2014.
69. Respondent did not appear for the May 21, 2014 hearing in the Chesterfield Circuit Court due to health issues.
70. Thereafter, Respondent's representation was terminated by Havens.

### **III. DISPOSITION**

Upon review of the foregoing findings of fact, upon review of exhibits presented by Bar Counsel on behalf of the VSB as Exhibits 1-13, and the stipulation of facts admitted as Joint Exhibit 1; upon the stipulation of testimony; and, upon evidence presented by Respondent in the form of his own testimony; and, at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After due deliberation the Board reconvened and stated its findings as follows:

1. The Board unanimously determined that, regarding Count III, the Bar failed to prove by clear and convincing evidence a violation of Rules 1.4(a) or (b) and dismissed those charges.
2. The Board determined that the Bar proved by clear and convincing evidence that, regarding Counts I and II, the Respondent was in violation of Rules 8.4(a), (b), and (c); and, regarding Count II, Respondent was in violation of Rules 1.3(a) and (b).

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<sup>1</sup> Although Respondent did not respond to the letter seeking dates for the Motion to Compel, Respondent's September 25, 2013 to the Court did *not* include December 10, 2013 as an available date for Respondent to appear in Court.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and Respondent, including Respondent's prior disciplinary record, as VSB Exhibit 14 and ABA Standards for Imposing Lawyer Discipline, as VSB Exhibit 15 . The Board recessed to deliberate what sanction to impose upon its findings of misconduct by Respondent. After due deliberation the Board reconvened to announce the sanction imposed. In reaching its decision as to the sanction, the Board considered the following aggravating and mitigating factors set forth in the American Bar Association Standards for Imposing Lawyer Sanctions:

A. Aggravating Factors:

(1) Prior disciplinary offenses.

Respondent received a public reprimand in 1989 for violations of DR 2-108, DR 6-101, and DR 7-101; and, Respondent received a Public Admonition in 2009 for Rules 1.3(a) and 1.4(a). Because Respondent's prior offenses involve similar acts of misconduct, the Board finds those prior offenses to be an aggravating factor in determining the appropriate sanction.

(2) Multiple offenses.

The Board also finds as an aggravating factor the fact that Respondent has committed multiple acts of misconduct in the context of this proceeding, including but not limited to his conduct in the Havens case and his negligence with respect to Paciocco's actions.

(3) Substantial experience in the practice of law.

Respondent has practiced law for thirty-three (33) years, and he should have known better than to engage in the type of misconduct that has been presented to the Board. The Board finds that the fact that he carried out these actions despite his many years of experience in the legal profession to be an aggravating factor.

B. Mitigating Factors:

(1) Absence of dishonest or selfish motive.

The absence of a dishonest or selfish motive may be a mitigating factor if the Board finds that it does, in fact, exist. *See, e.g., In re Van Doo*, 152 P.3d 1183 (Ariz. 2007). Respondent and the Bar agree that Respondent and Paciocco were close, personal friends and that they had known each other for many years, since law school. Respondent and the Bar agree that Respondent had no reason to suspect that Paciocco was not an effective and ethical attorney, despite Paciocco's

actions which led to his suspension. Respondent testified during Paciocco's hearing that he was "stupidly continuing to help a friend and not fully paying attention to what [he] should have been doing...it was for absolutely no monetary reason." See Exhibit 5. Respondent's actions in the bankruptcy and personal injury cases were carried out in an effort to assist an old friend; and, while it was certainly negligent of Respondent not to question or investigate the representations of Paciocco, the Board does not find that Respondent's actions were done out of dishonesty or with a selfish motive. Likewise, the Board does not find that Respondent's failure to timely and adequately pursue the Havens case was dishonest or selfish.

(2) Personal Problems/Physical Disability.

Although it does not excuse his actions or inactions in the Havens case, Respondent and the Bar agree that he was suffering from a personal medical illness during the time he represented Havens.

(3) Timely good faith effort to make restitution or to rectify consequences of misconduct.

Respondent acted to ensure that those persons who had sought to retain Paciocco for bankruptcy services received their fees back, ensuring that Paciocco did not profit from his wrongdoing and preventing those persons from committing a crime.

(4) Cooperation in disciplinary proceedings.

Although lawyers have a duty to cooperate in disciplinary proceedings, the Board finds that Respondent's cooperation in his own proceeding and that against Paciocco went far beyond what was required of him, and courts have often found this level of cooperation to be mitigating. See, e.g., *In re Disciplinary Proceeding Against Trejo*, 185 P.3d 1160 (Wash. 2008); *In re Richmond's Case*, 872 A.2d 1023 (N.H. 2005). Upon discovering Paciocco's actions, Respondent did everything in his power to rectify the misconduct of both himself and Paciocco. Despite the fact that he was suffering from medical issues at the time, Respondent fully cooperated with the Bar in the proceedings against Paciocco. Without his participation and testimony, the Bar would have had a more difficult time in meeting its burden for the revocation of Paciocco's license to practice law. Also, it would have been much more expensive for the Bar to do so. Respondent has also been fully cooperative with the Bar in the proceedings against him and has admitted that his actions were reckless. These actions demonstrate that he acknowledges the wrongfulness of his conduct and has accepted personal responsibility for his wrongdoing, which the Board finds to be a significant mitigating factor.

(5) Character or reputation.

Respondent has practiced law for thirty-three years and has developed a reputation of good character amongst his colleagues. Respondent proffered the testimony of Robert R. Dawson, Esquire, to which Bar Counsel stipulated due to the fact that Dawson was present at the hearing but had to leave before being able to testify. His proffered testimony was that Respondent has been practicing law for thirty-five years and was a good friend of Dawson. He found Respondent to be a capable attorney who was truthful, responsible, and diligent. David Michael Caudill, the Commonwealth Attorney for Goochland, Virginia, testified that he has had numerous cases with Respondent and that Respondent has always been prepared and respectful. In his opinion, Respondent has an excellent reputation in the community. In considering the appropriate sanction, the Board finds that Respondent's character and reputation in the community are a mitigating factor.

(6) Imposition of other penalties or sanctions.

As a result of his conduct in the bankruptcy cases, Respondent withdrew from practice in the U.S. Bankruptcy Courts. He was also required to take six additional hours of Continuing Legal Education and to pay fines to his clients in said cases. The Board finds the imposition of these penalties to be a mitigating factor in determining the appropriate sanction for Respondent's actions.

(7) Remorse.

Courts often consider a lawyer's remorse for his misconduct to be a mitigating factor. *See, e.g., People v. D'Acquisto*, 146 P.3d 1041 (Colo. O.P.D.J. 2006); *In re Koch*, 198 P.3d 910 (Or. 2008). With respect to Havens, Respondent admitted that he was negligent and had no excuse for his actions. As evidenced by his cooperating in these proceedings, as discussed herein above, and by his statements in his hearing before the Board, Respondent has shown that he is remorseful for his actions to the extent that the need for a more severe sanction is diminished.

(8) Remoteness of prior offenses.

While the Board did consider Respondent's prior disciplinary offenses as an aggravating factor, that factor is mitigated by the fact that Respondent's prior offenses occurred many years prior to the current matter.

Upon consideration of said factors, the Chair announced the majority opinion of the Board sanction as a suspension of Respondent's license to practice law for thirty (30) days.

Accordingly, it is ORDERED that the Respondent, Keith Hamner Waldrop, is suspended from the practice of law for thirty (30) days, effective August 31, 2016.

It is further ORDERED that, as directed in the Board's August 26, 2016, Summary Order in this matter, Respondent must comply with the requirements of Part Six, § IV, ¶ 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 suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom Keith Hamner Waldrop is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension 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 suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days of the effective day of the suspension. 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, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13-9 G. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to Respondent at his address of record with the Virginia State Bar, being Post Office Box 268, Goochland, Virginia 23063-0268 and alternate address being, 2987 River Road West, Goochland, Virginia 23063, by certified mail, return receipt requested, and by hand

delivery to Prescott L. Prince, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond,  
Virginia 23219.

ENTERED this 19th day of September, 2016.

VIRGINIA STATE BAR DISCIPLINARY BOARD

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William H. Atwill, Chair