

VIRGINIA:

Before the Virginia State Bar Disciplinary Board

In the Matter of

*Michael Alan Ward
Attorney at Law*

*VSB Docket Nos. 16-051-104943
16-051-106148*

On September 19, 2016 came Michael Alan Ward and presented to the Board an Affidavit Declaring Consent to Revocation of his license to practice law in the courts of this Commonwealth. By tendering his Consent to Revocation at a time when allegations of Misconduct are pending, the nature of which are specifically set forth in the attached affidavit and Petition for Expedited Hearing, Respondent acknowledges that that the material facts upon which the allegations of Misconduct are pending are true.

The Board having considered the said Affidavit Declaring Consent to Revocation, and Bar Counsel having no objection, the Board accepts his Consent to Revocation. Accordingly, it is ordered that the license to practice law in the courts of this Commonwealth heretofore issued to the said Michael Alan Ward be and the same hereby is revoked, and that the name of the said Michael Alan Ward be stricken from the Roll of Attorneys of this Commonwealth.

Entered this 19th day of September 2016

Virginia State Bar Disciplinary Board

By John A. C. Keith

*John A.C. Keith
2nd Vice Chair*

Digitally signed by John A. C. Keith
DN: cn=John A. C. Keith, o=Users, ou=DN,
email=jkeith@bklawva.com, c=US
Date: 2016.09.19 15:56:52 -04'00'

Sep 19, 2016

VIRGINIA:

VSB CLERK'S OFFICE

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTERS OF
MICHAEL ALAN WARD

VSB Docket No. 16-051-106148
VSB Docket No. 16-051-104943

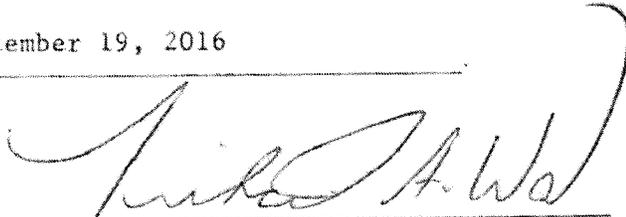
AFFIDAVIT DECLARING CONSENT TO REVOCATION

Michael Alan Ward, after being duly sworn, states as follows:

1. That Michael Alan Ward was licensed to practice law in the Commonwealth of Virginia on 05/10/1977;
2. That Michael Alan Ward submits this Affidavit Declaring Consent to Revocation pursuant to Rule of Court, Part 6, Section IV, Paragraph 13-28;
3. That Michael Alan Ward's consent to revocation is freely and voluntarily rendered, that Michael Alan Ward is not being subjected to coercion or duress, and that Michael Alan Ward is fully aware of the implications of consenting to the revocation of his license to practice law in the Commonwealth of Virginia;
4. Michael Alan Ward is aware that there are currently pending two (2) complaints, investigations into, and proceedings involving, allegations of misconduct, the docket numbers for which are set forth above, and the specific nature of which is set forth in the Petition for Expedited hearing, attached hereto as Exhibit A and incorporated herein by reference;
5. Michael Alan Ward acknowledges that the material facts upon which the allegations of misconduct are predicated are true; and
6. Michael Alan Ward submits this Affidavit and consents to the revocation of his

license to practice law in the Commonwealth of Virginia because he knows that if the disciplinary proceedings based on the said alleged misconduct were brought or prosecuted to a conclusion, he could not successfully defend them.

Executed and dated on September 19, 2016



Michael Alan Ward
Respondent

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

The foregoing Affidavit Declaring Consent to Revocation was subscribed and sworn to before me by Michael Alan Ward on September 19, 2016



Notary Public

My Commission expires: May 18 2018

VERONICA FUENTES
NOTARY PUBLIC
REG. #7595104
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MAY 31, 2018

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD OF THE VIRGINIA STATE BAR

**IN THE MATTERS OF
MICHAEL ALAN WARD**

VS B Docket Nos: 16-051-104943 and 16-051-106148

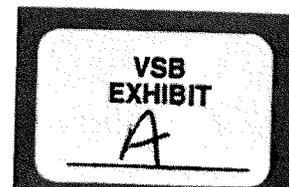
PETITION FOR EXPEDITED HEARING

COMES NOW the Virginia State Bar, by Assistant Bar Counsel Kathleen M. Uston, and files this its Petition for Expedited Hearing requesting that the Virginia State Bar Disciplinary Board enter an Order requiring Michael Alan Ward (“Respondent”) to appear before the Board on **Friday, the 26th day of August, 2016, at 9:00 a.m., at a location to be set forth in such Order**, for a hearing pursuant to Part Six, Section IV, Paragraph 13-18.D of the Rules of the Supreme Court of Virginia, at the conclusion of which the Bar will move to revoke the Respondent’s license to practice law in the Commonwealth of Virginia. In support of its Petition, the Bar states as follows:

1. The Respondent was licensed to practice law in the Commonwealth of Virginia on May 10, 1977. The Respondent’s license was suspended on February 22, 2015, for ethical misconduct for a period of twelve (12) months. As of the date hereof, the Respondent is classified as an Active Member of the Virginia State Bar, In Good Standing, and he is currently engaged in the practice of law in the Commonwealth of Virginia.
2. Investigations of ethical misconduct complaints pending against the Respondent make clear that he is no longer fit to practice law. His continued practice of law in the Commonwealth poses an imminent danger to the public, and his license must be revoked forthwith.

As to VSB Docket No. 16-051-104943:

3. On or around January 20, 2016, the Virginia State Bar (the “Bar”) received notice from a Virginia attorney who serves as a Substitute Judge that on January 19, 2016, Respondent appeared before him for a Status Conference while he was sitting as a Substitute Judge in Loudoun County Juvenile and Domestic Relations Court. Respondent’s license to practice law in the Commonwealth of Virginia was suspended at that time. The Substitute Judge reported that he saw Respondent sitting at counsel’s table with his client, Bradley S. Booyesen, after the case was called. The Substitute Judge advised the Bar that he had reviewed all of the files he was to take up that morning and noted that there was no Praecipe in the court’s file entering Respondent’s appearance on behalf of Mr. Booyesen. For that reason, the Substitute Judge asked Respondent to submit a Praecipe entering his appearance, and a court



form was handed to Respondent by the court bailiff. The Substitute Judge reported to the Bar that, as Respondent took up his pen to begin filling in the Praeceptum in order to enter his appearance as counsel for Mr. Booyesen, the Substitute Judge suddenly recalled that Respondent's license to practice law had been suspended. He therefore called both Respondent and opposing counsel to the bench.

4. Both attorneys approached and the Substitute Judge specifically asked Respondent if his license to practice law was suspended. Respondent replied in the affirmative and stated that he had another month or so before his suspension would be lifted. Opposing counsel had not been advised by Respondent that his license was suspended, learning of the suspension during this bench conference. The Substitute Judge thus advised Respondent that he was not permitted to sit at counsel's table and gave him several minutes to speak to his client before calling the case again.
5. Respondent then left the bench conference and he and Mr. Booyesen went out into the hallway. At that time, Respondent both failed to inform his client that his license was suspended and misrepresented to him what the judge had said. Respondent falsely informed Mr. Booyesen that the judge advised of some issue with the "paperwork," and that he (Respondent) would have to sit in the galley behind Mr. Booyesen, who should go back to counsel's table and set the case for trial sometime after February 21, 2016. Respondent did not tell Mr. Booyesen why the trial had to be scheduled after February 21st.
6. Respondent and Mr. Booyesen then returned to the courtroom, Mr. Booyesen went to sit at counsel's table alone, and a trial date of May 5, 2016, was selected.
7. Mr. Booyesen advised the Bar that at no time did Respondent inform him either that he could not appear with him in court on January 19, 2016, or that his license to practice law had been suspended.
8. Upon receiving notification from the Substitute Judge of the above, the Bar initiated an investigation of this matter. Incident to that investigation, Bar Investigator Ronald H. McCall interviewed Respondent. During that interview, Respondent made multiple misrepresentations to Investigator McCall with the intention that he be misled. Specifically, Respondent misrepresented, *inter alia*, that:
 - a. Mr. Booyesen first contacted him about representing him in his custody and visitation case in January, 2016. In fact, Respondent had been representing Mr. Booyesen since December, 2014. Mr. Booyesen provided billing records he had received from Respondent which detailed that Respondent had performed legal services for Mr. Booyesen on February 24, 2015, April 6, 2015, April 9, 2015, April 10, 2015, May 5, 13, 14, and 28, 2015, June 10, 12, 18, 19, 21, 22, 24, and 25, 2015, July 13, 17, 23, 24, and 27, 2015, and on August 4, 2015. On each of these dates, Respondent's license to practice law remained suspended.

- b. That when Mr. Booyesen contacted him in January, 2016, concerning representation in his custody and visitation case, he informed Mr. Booyesen that he could represent him only if the case were set for trial after March, 2016. As noted above, Mr. Booyesen denied this.
 - c. That at the time of his appearance in court on January 19, 2016, it was an “informal” proceeding so he did not think his presence “would be a problem,” and he was just about to advise the Substitute Judge as to why he was there when the judge called him to the bench. As noted above, the Substitute Judge has quite a different recollection.
 - d. That after the Substitute Judge told Respondent he could not sit at counsel’s table due to his suspension, Respondent went back to Mr. Booyesen and “explained what was going on.” As noted above, Mr. Booyesen denied this.
 - e. That at no time did he intend to enter his appearance in the case and he was not preparing to fill out any Praecipe form handed to him by the court’s bailiff. As noted above, the Substitute Judge has a different recollection.
 - f. That Mr. Booyesen did not retain him until after his suspension was lifted, and did not pay him any funds until May 18, 2016.
9. On June 6, 2016, the Bar issued a subpoena *duces tecum* to Respondent for his entire client file including all billing records, payment receipts, and trust and operating account bank records. In response to this subpoena, Respondent produced copies of what purported to be billing records and payment receipts concerning Mr. Booyesen’s matter. Both the billing records and payment receipt supported Respondent’s statements to Investigator McCall that he performed no work on Mr. Booyesen’s behalf until after his suspension had been lifted, and that Mr. Booyesen had made no payments to Respondent until May 18, 2016, after Respondent earned the funds paid.
 10. Investigator McCall also interviewed Mr. Booyesen who provided copies of Respondent’s billing records and a copy of the payment receipt. A review of these records revealed that Respondent had falsified both his billing records and the payment receipt in order to mislead Investigator McCall.
 11. When confronted with these facts, Respondent admitted to Investigator McCall that he had doctored the documents prior to sending to them to the Bar in response to the duly issued subpoena *duces tecum*, and that he had done so with the intention of misleading the Bar. Respondent also admitted that the funds paid by Mr. Booyesen, which were actually paid on January 15, 2016, were deposited directly into his operating account despite the fact that those funds had not yet been earned. Respondent advised Investigator McCall that his only excuse for having misappropriated Mr. Booyesen’s funds was that he “needed the money at the time due to medical expenses.”
 12. Respondent provided a copy of his operating account bank statement for the month of May, 2016. A review of this statement reveals that Respondent overdrawed his

operating account on four (4) separate occasions. Respondent also advised Investigator McCall that he is experiencing serious health difficulties requiring kidney dialysis three (3) times per week. It is clear that Respondent is in a difficult and precarious position both professionally and personally. The fact that he is willing, without compunction, to place his clients at risk of having any legal work performed by him on their behalf during his suspension rendered a nullity, and the fact that he has knowingly taken his client's money and begun spending it for his own use before it has been earned, demonstrates beyond any question that Respondent poses an imminent danger to the public.

13. A copy of the complaint opened based upon the report of the Substitute Judge discussed above was sent to Respondent at his last address of record with the Virginia State Bar under cover of a letter demanding his written response thereto within twenty-one days. Respondent failed to respond to the complaint despite his obligation to do so under applicable Rules.

As to VSB Docket No. 16-051-106148:

14. On or about May 27, 2016, the Bar received a complaint from Sonya Naseth Aoun, Esquire, (the "Complainant") who advised that Respondent had undertaken to represent Sahar Aziz in regards to the review and execution of a Premarital Agreement. Specifically, on January 13, 2016, Complainant received an email from Respondent advising that he had been retained by Ms. Aziz. In this email, Respondent advised Complainant, "I have been retained by Sahar Aziz with regard to a Premarital Agreement which you have prepared on behalf of her fiancée . . . I have reviewed the proposed Agreement and **discussed it with Ms. Aziz**" (emphasis added.)
15. On June 3, 2016, the Bar issued a subpoena *duces tecum* to Respondent for his entire client file including all billing records, payment receipts, and trust and operating account bank records. In response to this subpoena, Respondent produced copies of what purported to be a credit card payment receipt for \$500.00 dated March 8, 2016, from Ms. Aziz. This payment receipt supported Respondent's statements to Investigator McCall that he accepted no funds from Ms. Aziz until after his suspension had been lifted, and that Ms. Aziz had made no payments to Respondent until May, 2016, after Respondent had earned the funds paid.
16. When pressed by Investigator McCall during his interview with Respondent, he admitted that he had falsified this payment receipt prior to sending it to the Bar in response to the subpoena *duces tecum* and that he had done so with the intention of misleading the Bar. Respondent also admitted that the funds paid by Ms. Aziz were actually paid on January 12, 2016, and that he deposited those funds directly into his operating account despite the fact that those funds had not yet been earned.
17. The Premarital Agreement that Ms. Aziz executed after hiring Respondent to represent her interests therein contained waivers of significant legal rights, and specifically noted in separate provisions that each party was executing the agreement

after having sought and received the advice of independent counsel. Further, the respective net worth of the parties reflected that Ms. Aziz's fiancée had significant assets while she had essentially none, and that she was waiving any rights she may have to seek support, maintenance, retirement benefits, any interest in the marital home, etc. in the event that the marriage failed.

18. The Respondent's conduct with respect to the two docketed matters referred to above constitutes a violation of the following Virginia Rules of Professional Conduct:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

RULE 1.4 Communication

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

RULE 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.

RULE 1.15 Safekeeping Property

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(b) Specific Duties. 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 accountings to the client regarding them;

(5) not disburse funds or use property of a client or third party without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

RULE 3.5 Impartiality And Decorum Of The Tribunal

(f) A lawyer shall not engage in conduct intended to disrupt a tribunal.

RULE 4.1 Truthfulness In Statements To Others

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of fact or law[.]

RULE 5.5 Unauthorized Practice Of Law; Multijurisdictional Practice of Law

(c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

RULE 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:

- (a) knowingly make a false statement of material fact;
- (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter;
- (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
- (d) obstruct a lawful investigation by an admissions or disciplinary authority.

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

19. The Respondent's violations of the aforesaid Virginia Rules of Professional Conduct demonstrate that the Respondent's continued presence on the roll of attorneys in this Commonwealth would result in imminent further injury to, and loss of property of, his clients and other persons. Nothing short of revocation of the Respondent's license to practice law in the Commonwealth will suffice to protect the public from Respondent's egregious ethical misconduct. Respondent is no stranger to the

disciplinary system, having a substantial public disciplinary record, a full copy of which is attached hereto.

20. Despite the prior suspension of Respondent's license to practice law in Virginia, he has resumed the commission of ethical misconduct in this jurisdiction and has demonstrated through the behavior set forth herein that he has little regard for the welfare of and property of his clients, the dignity and authority of courts, and the truth.

WHEREFORE, the Virginia State Bar respectfully petitions the Virginia State Bar Disciplinary Board to enter an Order revoking the license of Respondent Michael Alan Ward to practice law in the Commonwealth of Virginia, following a hearing on this Petition, for violation of the aforesaid Virginia Rules of Professional Conduct.

VIRGINIA STATE BAR

By:

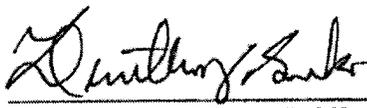


KATHLEEN M. USTON
Assistant Bar Counsel

COMMONWEALTH OF VIRGINIA,
AT LARGE, to-wit:

Appeared before the undersigned Notary Public, in Lorton, Virginia, Kathleen M. Uston, Assistant Bar Counsel, who, after being duly sworn according to law, gave oath that the contents of the foregoing Petition for Expedited Hearing are true and accurate to the best of her knowledge, information and belief.

Given under my hand this 08th day of August, 2016.



Notary Public

My Commission Expires: 07/31/2019



KATHLEEN M. USTON
Assistant Bar Counsel
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Richmond, Virginia 23219-0026
Telephone: (804) 775-0547
Facsimile: (804) 775-0597

CERTIFICATE OF SERVICE

I certify that I have on this 9th day of August, 2016, mailed by Certified Mail, return receipt requested, a true and correct copy of the foregoing Petition for Expedited Hearing to the Respondent, Michael A. Ward, Esquire, at Suite 301, 4085 Chain Bridge Road, Fairfax, VA 22030, his last address of record with the Virginia State Bar.



Kathleen M. Uston
Assistant Bar Counsel