

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
JESSE ERIC WHITE**

**VS B DOCKET NO(S). 15-053-101145, 15-053-101702,
15-053-102384, 15-053-102595,
15-053-102683**

AGREED DISPOSITION MEMORANDUM ORDER

On February 16, 2016, this matter was heard by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by the Rules of the Supreme Court of Virginia. The panel consisted of William H. Atwill, Jr., Chair, Lisa A. Wilson, Samuel R. Walker, John A. Dezio, and Robert W. Carter, Lay Member. The Virginia State Bar was represented by Elizabeth K. Shoenfeld, Assistant Bar Counsel. Jesse Eric White was not represented by counsel and was not present for the conference call. Court Reporter Tracy J. Stroh, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings. The Chair polled the members of the Board as to whether any of them was aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter, and each member responded in the negative. Bar Counsel represented to the panel that she received the signed agreed disposition via email from the Respondent on February 2, 2016. Bar Counsel then outlined the proposed Agreed Disposition and answered questions from panel members.

WHEREFORE, upon consideration of the Agreed Disposition, the Certification, *and* Respondent's Disciplinary Record,

It is **ORDERED** that the Board accepts the Agreed Disposition and the Respondent shall receive a Two-Year Suspension, effective February 16, 2016, as set forth in the Agreed Disposition, which is attached to this Memorandum Order; and

It is further **ORDERED** that the sanction is effective on February 16, 2016; and

It is further **ORDERED** that the 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 of the Revocation or Suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he 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 Revocation or Suspension, and make such arrangements as are required herein within 45 days of the effective date of the Revocation or Suspension. The Respondent shall also furnish proof to

the Bar within 60 days of the effective day of the Revocation or 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 the Revocation or Suspension, he shall submit an affidavit to that effect within 60 days of the effective date of the Revocation or Suspension to the Clerk of the Disciplinary System at the Virginia State Bar. 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 the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9 E. of the Rules.

A copy teste of this Order shall be mailed by Certified Mail, return receipt requested to Jesse Eric White, at his last address of record Jesse Eric White, 5201 Windward Way Southport, NC 24861 with the Virginia State Bar and hand-delivered to Elizabeth K. Shoenfeld, Assistant Bar Counsel, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

ENTERED THIS 16th DAY OF February, 2016

VIRGINIA STATE BAR DISCIPLINARY BOARD

**William H.
Atwill**

Digitally signed by William H. Atwill
DN: cn=William H. Atwill, o=Virginia
State Bar, ou=Disciplinary Board,
email=batwill@atandlpc.com, c=US
Date: 2016.02.16 16:47:15 -05'00'

William H. Atwill, Jr., Chair

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VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

VSB CLERK'S OFFICE

IN THE MATTER OF
JESSE ERIC WHITE

VSB Docket No. 15-053-102384
VSB Docket No. 15-053-101145
VSB Docket No. 15-053-101702
VSB Docket No. 15-053-102595
VSB Docket No. 15-053-102683

AGREED DISPOSITION
(TWO-YEAR SUSPENSION)

Pursuant to the Rules of the Virginia Supreme Court Rules of Court Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Elizabeth K. Shoenfeld, Assistant Bar Counsel and Jesse Eric White, Respondent, *pro se*, enter into the following Agreed Disposition arising out of these matters.

I. STIPULATIONS OF FACT

1. At all times relevant to the conduct set forth herein, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On September 4, 2015, Respondent's license was administratively suspended for failure to respond to subpoenas duces tecum issued by the Virginia State Bar ("VSB") in connection with these disciplinary proceedings.

Facts relating to Docket No. 15-053-102384 (Complainant Wazhma Khalili)

3. Ms. Wazhma Khalili retained Respondent to represent her in several different personal injury matters in which she was the plaintiff.
4. In or around October 2013, Respondent settled one of Ms. Khalili's personal injury cases for \$5,000.00. In satisfaction of the settlement, Respondent received a \$5,000 check from USAA, the defendant's insurance carrier. Respondent deposited this check into his trust account.

5. In or around November 2014, in another personal injury matter in which Respondent represented Ms. Khalili, Respondent obtained a judgment in the amount of \$4,115.00 in Ms. Khalili's favor. Respondent received a check in the amount of \$4,115.00 from USAA, the insurance carrier for the defendant. Respondent deposited this check into his trust account.

6. The October 2013 settlement and November 2014 judgment amounts were subject to a \$3,224.50 medical lien held by Inova Fairfax Hospital.

7. On April 22, 2015, Respondent told a VSB investigator that he was still holding \$3,224.50, the full amount of the lien, in his trust account while he attempted to negotiate the lien amount with Inova Fairfax Hospital.

8. Meanwhile, on September 12, 2014, Respondent filed suit on Ms. Khalili's behalf in another personal injury matter in the General District Court for Prince William County, Virginia.

9. On February 10, 2015, Respondent told Ms. Khalili that he would no longer represent her in her cases.

10. Respondent did not file a motion to withdraw as counsel in the matter that was still pending in the General District Court for Prince William County.

11. Between February 2015 and April 2015, Ms. Khalili and Karen Leiser, an attorney who was considering representing Ms. Khalili, called and emailed Respondent in order to request Ms. Khalili's case files. Respondent did not return these telephone calls and emails.

12. On April 3, 2015, Ms. Khalili filed a complaint regarding Respondent with the VSB. The VSB opened an investigation into Respondent's conduct regarding this matter.

13. On April 10, 2015, the Fifth District Committee of the Virginia State Bar issued a subpoena *duces tecum* to Respondent. The subpoena required Respondent to produce documents

to the VSB on or before May 1, 2015. Among the documents requested were bank statements, cancelled checks, cash receipts journals, cash disbursement journals, subsidiary ledgers and evidence of reconciliations from March 1, 2013 to the present.

14. Although Respondent provided some documents in response to the subpoena, he did not provide canceled checks, cash receipts journals, cash disbursement journals, deposit tickets or evidence of reconciliations. He also did not provide any bank statements for the March 2013 - October 2013 timeframe.

15. After Respondent failed to respond to the subpoena, bar counsel wrote Respondent advising him that failure to produce the subpoenaed documents would result in the Bar filing a Notice of Noncompliance and requesting interim suspension. Respondent did not reply to bar counsel's letter and failed to provide any additional documents.

16. On August 21, 2015, bar counsel filed a Notice of Noncompliance with the Disciplinary Board.

17. On September 4, 2015, the Clerk of the Disciplinary System entered an Interim Suspension Order suspending Respondent's license until he fully complies with the subpoena *duces tecum*.

18. At the same time the VSB was conducting its investigation, Ms. Khalili's case in the Prince William County General District Court remained ongoing and Mr. White remained the counsel of record.

19. A return date was set for March 19, 2015. B. Patrick O'Grady, who was counsel for the defendant, attempted to contact Respondent to set a trial date. Respondent did not respond to Mr. O'Grady.

20. A trial was set for July 9, 2015.

21. Respondent never filed a motion to withdraw as Ms. Khalili's counsel.

22. No one appeared on Ms. Khalili's behalf at the July 9, 2015 trial.
23. On July 9, 2015, the Court dismissed Ms. Khalili's complaint with prejudice.

Docket No. 15-053-101702 (Complainant Lidia Garcia)

24. In or around November 2013, Ms. Lidia Garcia retained Respondent to represent her regarding a November 2012 motor vehicle accident.

25. After Ms. Garcia retained Respondent, Respondent did not respond to her telephone calls and emails in which she requested information regarding the status of her case.

26. On November 12, 2014, the day before the statute of limitations expired, Respondent filed a Warrant in Debt in the General District Court for Prince William County on Ms. Garcia's behalf.

27. On December 22, 2014, Respondent emailed Ms. Garcia to tell her that he needed to withdraw as counsel.

28. Respondent never filed a motion to withdraw as counsel from Ms. Garcia's case.

29. Ms. Garcia eventually found a new attorney, who settled the case prior to trial.

Docket No. 15-053-101145 (Complainant Christina Whittaker)

30. Ms. Christina Whittaker retained Respondent in or around September 2013 to represent her regarding a motor vehicle accident.

31. According to the records Respondent provided as part of the VSB investigation, Respondent did not perform any work on Ms. Whittaker's case until June 12, 2014.

32. In July 2014, Ms. Whittaker emailed Respondent at least four times to check on the status of her case. Respondent did not reply to these emails.

33. Between early October 2014 and early November 2014, Ms. Whittaker called Respondent daily to check on the status of her case. Ms. Whittaker left Respondent voicemail messages that included her telephone number.

34. Ms. Whittaker never received any response to these voicemail messages.

35. On December 12, 2014, Ms. Whittaker wrote to Respondent to terminate his representation of her. Ms. Whittaker and her new counsel also requested that Respondent provide a copy of her file.

36. Between December 12, 2014 and February 20, 2015, Ms. Whittaker's new counsel, John Irving, called, emailed and wrote to Respondent to follow up on the request for Ms. Whittaker's file.

37. Mr. Irving did not receive a copy of Ms. Whittaker's file until March 2, 2015; nearly three months after Ms. Whittaker requested it.

Docket No.. 15-053-102595 (Complainant Jose Castro)

38. Mr. Castro retained Respondent in December 2014 to represent him regarding a motor vehicle accident.

39. After Mr. Castro retained Respondent, Respondent did not contact Mr. Castro for more than three months.

40. On March 3, 2015, Mr. Castro sent a text message to Respondent. In his message, he said, "I have tried to communicate [sic] with you and I receive no answer. I understand you might be busy but I should of atleast [sic] had a callback by now. I do have right to know my case status or seek another attorney."

41. On March 4, 2015, Respondent replied via text message. He said that he had called Mr. Castro back each time he had a message, and said that he was "more than happy to send your file wherever you would like though, if you wish to seek other counsel."

42. Mr. Castro responded that he has "been trying to reach you for several weeks in your office and cell phone with no response." He said that he wanted to "verify if you are still working on my case, if so, you may proceed. If otherwise please notify me."

43. On March 5, 2015, Respondent claims that he sent a letter to Mr. Castro stating “I am withdrawing as counsel for your case.”

44. On April 21, 2015, Mr. Castro filed his bar complaint. In the Complaint, Mr. Castro indicated that he was still the Respondent’s client.

45. On May 14, 2015, in response to the bar complaint, Respondent sent an email to Mr. Castro. Respondent wrote, “I’ve been trying to reach you, but have been unable to do so. I have had some personal issues which has resulted in me deciding to close my practice and move out of state. As a result, I will not be able to further represent you.”

46. The VSB opened an investigation regarding Mr. Castro’s complaint.

47. On May 1, 2015, the VSB investigator emailed Respondent to request an interview regarding this matter.

48. Respondent acknowledged receipt of this email but did not address the request for an interview.

49. On May 6, 2015, the VSB investigator emailed Respondent to follow up on his request for an interview.

50. On May 11, 2015, the VSB investigator called Respondent and left a detailed voice message requesting an interview.

51. On May 18, 2015, Respondent emailed the VSB investigator and requested that the interview take place by phone.

52. That same day, the VSB investigator replied to Mr. White and asked for an in-person interview. He offered to visit the Respondent’s office that afternoon.

53. Respondent did not reply.

54. Later that same day, the VSB investigator asked Respondent to provide his availability for a meeting on May 19 or 20, 2015.

55. Respondent did not reply.

56. On May 29, 2015, the VSB investigator emailed Respondent to request an interview.

57. Respondent did not reply.

Docket No. 15-053-102683 (Complainant Eileen Graham)

58. In August 2014, Ms. Eileen Graham retained Respondent to represent her regarding two motor vehicle accidents that occurred in 2013.

59. In November 2014, Ms. Graham met with Respondent and provided him with information and documents regarding her second motor vehicle accident. Respondent said he would make copies of the documents and return them to Ms. Graham. Respondent did not return the documents until several months later.

60. Between December 2014 and April 2015, Respondent was not responsive to Ms. Graham's numerous attempts to contact him by telephone, email, text message and letter.

61. On April 4, 2015, Ms. Graham emailed Respondent to terminate him as her counsel because he was not responding to her. Ms. Graham requested that Respondent provide her with a copy of her file on or before April 10, 2015.

62. Respondent did not reply to this message, nor did he provide a copy of the file by April 10, 2015, as requested.

63. On May 1, 2015, Ms. Graham filed her bar complaint.

64. Ms. Graham did not receive her file until May 25, 2015, which was less than one month before the statute of limitation ran on one of her potential lawsuits.

65. Meanwhile, on May 12, 2015, the Fifth District Committee of the VSB issued a subpoena *duces tecum* to Respondent. The subpoena required Respondent to produce documents to the VSB on or before May 26, 2015.

66. The Respondent failed to provide any response to the subpoena *duces tecum*.

67. On May 29, 2015, bar counsel wrote Respondent advising that failure to produce the subpoenaed documents would result in bar counsel's filing a notice of noncompliance and request for interim suspension.

68. Respondent did not reply to bar counsel's letter.

69. On August 21, 2015, bar counsel filed a Notice of Noncompliance with the Disciplinary Board.

70. On September 4, 2015, the Clerk of the Disciplinary System entered an Interim Suspension Order suspending Respondent's license until he fully complies with the subpoena *duces tecum*.

71. Also in May 2015, the VSB investigator made several attempts to set up an interview of Respondent regarding Ms. Graham's complaint.

72. On May 6, 2015, the VSB investigator emailed Respondent to request an interview.

73. On May 11, 2015, the VSB investigator called Respondent and left a detailed voice message requesting an interview.

74. On May 18, 2015, Respondent emailed the VSB investigator and requested that the interview take place by phone.

75. That same day, the VSB investigator replied to Respondent and asked for an in-person interview. He offered to visit the Respondent's office that afternoon.

76. Respondent did not reply.

77. Later that same day, the VSB investigator asked Respondent to provide his availability for a meeting on May 19 or 20, 2015.

78. Respondent did not reply.

79. On May 29, 2015, the VSB investigator emailed Respondent to request an interview.

80. Respondent did not reply.

II. NATURE OF MISCONDUCT

Such conduct by the Respondent constitutes misconduct in violation of the following provisions of the 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.
- (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

- (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.
- (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 1.16 Declining Or Terminating Representation

- (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).
- (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 this 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 the course of the representation.

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:

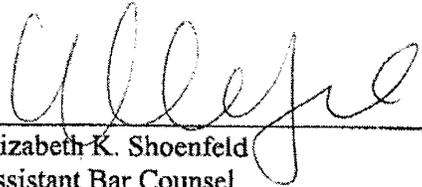
- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

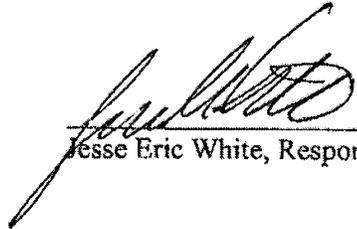
III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and the Respondent tender to the Disciplinary Board for its approval the agreed disposition of a Two Year Suspension as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee.

THE VIRGINIA STATE BAR

By: 
Elizabeth K. Shoenfeld
Assistant Bar Counsel


Jesse Eric White, Respondent