

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF )  
DAVID REDD YOUNG, JR. )  
 )  
Respondent ) VSB DOCKET NOS.:  
 ) 11-000-085412 (VSB)  
 ) 10-070-082366 (Dahill)  
 ) 11-070-085556 (Chamblin)  
 ) 11-070-086436 (Pogrebezinskis)  
 )

MEMORANDUM ORDER OF SUSPENSION

THIS MATTER came on to be heard on May 20, 2011 before a panel of the Virginia State Bar Disciplinary Board consisting of Thomas R. Scott, Jr., 1<sup>st</sup> Vice Chair, presiding, Pleasant S. Brodnax, III, Nancy C. Dickenson, J. Casey Forrester, and Steven A. Wannall, lay member. The Virginia State Bar was represented by Marian L. Beckett, Assistant Bar Counsel. The Respondent, David Redd Young, Jr., appeared in person and represented himself. The Chair polled the members of the Board as to whether any of them had any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, and each member responded that there were no such conflicts. The court reporter for the proceeding, Valarie L. S. May of Chandler & Halasz, Post Office Box 9349, Richmond, Virginia 23227, telephone: (804) 730-1222, after duly being sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the Bar's Notice of Noncompliance and Request for Revocation of Respondent's License to Practice Law for Failure to Comply

with Part 6, Section IV, Paragraph 13-29 of the Rules of Court (VSB Docket No. 11-000-085412), and the Bar's Petition for Expedited Hearing Before the Disciplinary Board (VSB Docket Nos. 10-070-082366, 11-070-085556, 11-070-086436).

## I. FINDINGS OF FACT AND NATURE OF MISCONDUCT

The Board accepted into evidence all of the Bar's exhibits, "1" through "14", and the Board makes on the basis of clear and convincing evidence the following findings of fact and misconduct in each case:

### VSB Docket No. 11-000-085412 (VSB)

#### I. FINDINGS OF FACT

1. David Redd Young, Jr., Esquire (hereinafter "the Respondent"), is an active member of the Virginia State Bar, whose license to practice law in the Commonwealth of Virginia was suspended on June 9, 2010 for failure to respond to a *subpoena duces tecum* issued to him by the Bar. The Respondent's license remained suspended on these grounds as of the time of the show cause hearing.

2. A subpoena *duces tecum* was issued by the bar to the Respondent on March 30, 2010, requiring production of the entire client file, including all financial and trust account records on or before April 20, 2010. The Respondent received and signed for the subpoena on April 1, 2010.

3. On May 10, 2010, Assistant Bar Counsel Alfred Carr sent a letter to the Respondent giving him notice that if the subpoenaed documents were not received on or before May 20, 2010, a Notice of Noncompliance would be issued with a request for an interim suspension of the Respondent's license to practice law. No response was received from the Respondent.

4. A Notice of Noncompliance and Request for Interim Suspension was filed with the Disciplinary Board on May 27, 2010. The Notice and Request were received and signed for by the Respondent.

5. The Respondent's license was suspended on June 9, 2010 for failure to comply with the subpoena. The Interim Suspension Order includes the language that "the suspension shall remain in effect until the Virginia State Bar Disciplinary Board

determines that David Redd Young, Jr. has fully complied with the subpoena *duces tecum* served on March 30, 2010". As of the time of the show cause hearing, the Respondent had submitted certain of the documents requested but had not fully complied with the subpoena.

6. The Interim Suspension Order and accompanying correspondence were forwarded to the Respondent by the Clerk of the Disciplinary System on June 9, 2010. The following language was included in the Order provided to the Respondent.

It is further ORDERED that David Redd Young, Jr., must comply with all of the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia.

7. The June 9, 2010 correspondence to the Respondent from the Clerk of the Disciplinary System set forth the following instruction:

Please note your duty under the Rules of Court, Part Six, § IV, Paragraph 13-29M which states as follows: Duties of Suspended or Disbarred attorney: Any attorney who is disbarred or suspended as a result of a proceeding under this paragraph 13 shall forthwith give notice, by certified mail, of his disbarment or suspension to all clients for whom he is currently handling matters and to all opposing attorneys and the presiding judges in pending litigation. The Attorney shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. The Attorney shall give such notice within 14 days of the effective date of the disbarment or suspension order, and make such arrangements as are required herein within 45 days of the effective date of the disbarment or suspension order. The Attorney shall also furnish proof to the bar within 60 days of the effective date of the disbarment or suspension order that such notices have been timely given and such arrangements for the disposition of matters made. Issues concerning the adequacy of the notice and arrangements required herein shall be determined by the Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with the requirements of this subparagraph.

8. The June 9, 2010 correspondence to the Respondent from the Clerk of the Disciplinary System included the instruction that the Respondent must provide the Clerk with proof of his compliance with the duties of a suspended attorney pursuant to Paragraph 13-29 on or before August 9, 2010. The June 9, 2010 correspondence also enclosed certain forms which the letter identified as being "acceptable to the Disciplinary Board in order to be in compliance" with the provisions of Paragraph 13-29.

9. The Respondent failed to provide proof on or before August 9, 2010 of his compliance with the requirements of Paragraph 13-29.

10. The Clerk of the Disciplinary System sent the Respondent correspondence dated September 1, 2010 reminding the Respondent that he had not yet provided proof of his compliance with Part Six, § IV, Paragraph 13-29, and urged him to do so. As of the date of the show cause hearing, the Bar had not received proof of compliance by the Respondent.

**VS B Docket No. 10-070-082366 (Dahill)**

**I. FINDINGS OF FACT**

11. The complainant, Diana Dahill, hired the Respondent in April of 2009 and paid an advanced fee of \$2,500 for representation at a spousal support hearing on April 13, 2009.

12. The Respondent appeared at the scheduled hearing but thereafter failed to communicate with the Complainant despite her efforts to do so. The Respondent failed to respond to multiple telephone calls and emails initiated by the Complainant, and failed to respond to a registered letter delivered to the Respondent's office for which the complainant received confirmation of receipt.

13. The Complainant found it necessary to engage successor counsel, and hired Ronald Ekin, Esquire, in October of 2010. At no time between the April hearing and October 2010 did the Respondent inform the Complainant that his license to practice law in Virginia had been suspended.

14. The Complainant filed a bar complaint which was received by the Bar on January 11, 2010. In addition to the above, the complaint alleges that the Respondent also failed to respond to communications from opposing counsel on the matter, Carl Horton, Esquire.

15. On January 13, 2010, the Virginia State Bar Deputy Intake Counsel Jane Fletcher sent correspondence to the Respondent directing him to communicate with the Complainant regarding her case, and to provide the Intake Office with a record of the communications on or before January 25, 2010. The Respondent failed to respond to Ms. Fletcher.

16. On February 5, 2010, Ms. Fletcher again wrote to Respondent directing him to respond within 5 days, and informing him that if no response was received, a formal case would be opened. The Respondent failed to respond to Ms. Fletcher's second request.

17. On February 18, 2010, Assistant Bar Counsel Alfred Carr sent the complaint to Respondent accompanied by a letter which included the language "I demand that you submit a written answer within 21 days of the date of this letter". The letter also gave notice to the Respondent that "[f]ailure to respond in a timely manner to this and other lawful demands from the bar for information about the complaint may result in the imposition of disciplinary sanctions". The Respondent failed to respond to the bar complaint.

18. A subpoena *duces tecum* was issued by the bar to the Respondent on March 30, 2010, requiring production of the entire client file including all financial and trust account records on or before April 20, 2010. The Respondent received and signed for the subpoena on April 1, 2010. He thereafter failed to respond to the subpoena.

19. On May 10, 2010, Assistant Bar Counsel Alfred Carr mailed a letter to Respondent giving him notice that if the subpoenaed documents were not received on or before May 20, 2010, a Notice of Noncompliance would be issued with a request for an interim suspension of the Respondent's license to practice law.

20. A Notice of Noncompliance and Request for Interim Suspension was filed with the Disciplinary Board on May 27, 2010. The Notice and Request were received and signed for by the Respondent.

21. The Respondent's license was suspended for failure to comply with the subpoena on June 9, 2010. The Interim Suspension Order includes the language that "the suspension shall remain in effect until the Virginia State Bar Disciplinary Board determines that David Redd Young, Jr. has fully complied with the subpoena *duces tecum* served on March 30, 2010". As of the time of the show cause hearing, the Respondent had submitted certain of the documents requested, but had not fully complied with the subpoena.

22. This matter was investigated by Virginia State Bar Investigator David G. Fennessey. Mr. Fennessey reported that the telephone number provided by the Complainant has been disconnected, and that Mr. Young's office telephone number reaches a recording stating that the number is not in service.

## II. NATURE OF MISCONDUCT

The Bar alleges that the foregoing acts and omissions by the Respondent are violations of the following Rules of Professional Conduct:

**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.

**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[;]

**VSb Docket No. 11-070-085556 (The Honorable James H. Chamblin)**

**I. FINDINGS OF FACT**

23. On July 20, 2009, with the Respondent and opposing counsel present, an equitable distribution case styled Thaddeus Sienkiewicz v. Patricia Sienkiewicz, a/k/a Patricia Taylor, Civil No. 55761, was set for trial in the Circuit Court for Loudoun County, to be heard before Judge Chamblin on December 15, 2009.

24. The hearing did not conclude on December 15 as expected and additional time was set aside to complete the matter on February 19, April 19, and May 21, 2010.

25. Judge Chamblin granted the parties leave to submit final arguments in writing, with the submission on behalf of the Plaintiff due from the Respondent on June 21, 2010, and the rebuttal to the defendant's closing argument due from the Respondent on or about July 21, 2010.

26. The Respondent's license to practice law was suspended on June 9, 2010. The Respondent did not inform Judge Chamblin or move to withdraw as counsel for the Plaintiff.

27. On June 21, 2010, the Respondent filed a Motion for Extension of Time to file his written argument. Opposing counsel objected to the Motion.

28. On June 28, 2010, the Respondent advised Judge Chamblin's law clerk that he and opposing counsel had agreed on a schedule for submission of final arguments and rebuttal, and that he would submit an Agreed Order to the Court. No such order was submitted.

29. By July 23, 2010, the Respondent had not yet filed his written argument. Following an August 6, 2010 Motions hearing noticed by opposing counsel during which she requested that the Respondent forfeit his ability to file an argument on behalf of the plaintiff, the Court ordered a new filing schedule for the parties' submissions. The schedule permitted the filing of the plaintiff's rebuttal by the Respondent on or before September 7, 2010.

30. On or about August 31, 2010, it came to Judge Chamblin's attention during a review of the Virginia Law Register that the Respondent's license had been suspended on June 9, 2010. That same day, Judge Chamblin's law clerk confirmed the suspension with the Virginia State Bar.

31. On September 1, 2010, Judge Chamblin notified the Virginia State Bar of the Respondent's participation in the Sienkiewicz matter. In his letter to the Bar, Judge Chamblin also references the Respondent's appearance before the Court in at least one criminal matter during the time of suspension.

32. On October 27, 2010, the complaint was forwarded to the Respondent accompanied by a letter which included the language "I demand that you submit a written answer within 21 days of the date of this letter". The letter also gave notice to the Respondent that "[f]ailure to respond in a timely manner to this and other lawful demands from the bar for information about the complaint may result in the imposition of disciplinary sanctions". The Respondent failed to respond to the bar complaint.

## II. NATURE OF MISCONDUCT

The Bar alleges that the foregoing acts and omissions by the Respondent are violations of the following Rules of Professional Conduct:

### **RULE 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[;]

**RULE 5.5 Unauthorized 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:

- (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[;]

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

**VSF Docket No. 11-070-086436 (Olegs Pogrebezinskis)**

**I. FINDINGS OF FACT**

33. The Complainant first met Respondent in September 2010 when he sought representation regarding a Chapter 7 bankruptcy proceeding. The Complainant alleges that the Respondent explained the process of filing bankruptcy, provided documents to be completed, and quoted a fee for the work to be performed. The Respondent did not inform the Complainant that he could not accept the case as his license to practice law had been suspended approximately 3 months prior.

34. The Complainant completed the documents as requested and hired the Respondent in October of 2010. He paid an advanced fee of \$2,200 in cash.

35. Thereafter the Respondent failed to respond to the Complainant's multiple attempts to communicate with him. The Complainant last spoke with the Respondent in November of 2010 to inquire about the status of the case. The Complainant alleges that the Respondent informed him that the case had not yet been filed but would be filed "shortly". Thereafter the Respondent again failed to communicate.

36. The Complainant filed a complaint which was received by the Bar on January 5, 2011. The complaint included a notation that when the Complainant attempted to telephone the Respondent on January 4, 2011, the phone line was "disconnected".

37. The Complainant learned of the Respondent's suspension from the Virginia State Bar website.

38. On February 10, 2011, the complaint was forwarded to the Respondent accompanied by a letter which included the language "I demand that you submit a written answer within 21 days of the date of this letter". The letter also gave notice to the Respondent that "[f]ailure to respond in a timely manner to this and other lawful demands from the bar for information about the complaint may result in the imposition of disciplinary sanctions". The Respondent failed to respond to the bar complaint.

## II. NATURE OF MISCONDUCT

The Bar alleges that foregoing acts and omissions by the Respondent are violations of the following Rules of Professional Conduct:

### **RULE 1.4 Communication**

- (a) A lawyer should keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

### **RULE 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[;]

**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:

- (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[;]

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

**II. DISPOSITION**

Upon review of the forgoing findings of fact, upon review of exhibits presented by Bar Counsel on behalf of the Virginia State Bar as Exhibits 1 through 14, upon evidence from witnesses presented on behalf of the Bar, and upon evidence presented by the 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 found that the Respondent did not show cause, by clear and convincing evidence, why his license should not be additionally suspended for his failure to comply with Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia in VSB Docket No. 11-007-085412 (VSB).

2. The Board determined that the Bar did prove by clear and convincing evidence that the Respondent was in violation of the following Rules in the following cases:

VSB Docket No. 10-070-082366 (Dahill): Rule 8.1(c) Bar Admission and Disciplinary Matters (the Bar withdrew its allegation of a violation of Rule 1.4(a) Communication).

VSB Docket No. 11-070-085556 (Chamblin): Rule 1.16(a)(1) Declining or Terminating Representation, Rule 5.5(c) Unauthorized Practice Of Law, Rule 8.1(c) Bar Admission and Disciplinary Matters, and Rule 8.4(b) and (c) Misconduct.

VSB Docket No. 11-070-086436 (Pogrebezinskis): Rule 1.16(a)(1) Declining or Terminating Representation, Rule 5.5(c) Unauthorized Practice of Law; Multijurisdictional Practice of Law, Rule 8.1(c) Bar Admission and Disciplinary Matters, and Rule 8.4(b) and (c) Misconduct. The Board determined that the Bar failed to prove by clear and convincing evidence a violation of Rule 1.4(a) Communication.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar, including Respondent's prior disciplinary record. 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. The Chair announced the sanction as a five-year suspension of Respondent's license.

Accordingly, it is ORDERED that the license of the Respondent, David Redd Young, Jr., be and hereby is suspended for a period of five (5) years beginning as of May 20, 2011.

It is further ORDERED that as directed in the Board's Summary Order of May 20, 2011, the Respondent must comply with the requirements of Part 6, 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 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(s). 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 date of the suspension if 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, he shall submit an Affidavit to that effect 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, unless the Respondent makes a timely request for a hearing before a three-judge court.

It is further ORDERED that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-9.E.

It is further ORDERED that the Clerk of the Disciplinary System shall send a certified copy of this Order by certified mail to David Redd Young, Jr. at his last address of record with the Virginia State Bar at 15 Loudoun Street, S.W., Suite C, Leesburg, Virginia 20175, and shall hand-deliver a copy to Marian L. Beckett, Assistant Bar Counsel at 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 20<sup>th</sup> day of June, 2011.

**VIRGINIA STATE BAR DISCIPLINARY BOARD**

By: Thomas R. Scott, Jr.  
**Thomas R. Scott, Jr., First Vice Chair**