

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
ANDREW IRA BECKER

VSB DOCKET NO. 06-021-4018

MEMORANDUM ORDER

This matter came on to be heard on November 16, 2007 by a panel of the Disciplinary Board of the Virginia State Bar (the Board) consisting of Thaddeus T. Crump, Lay Member, Michael S. Mulkey, Glenn M. Hodge, John W. Richardson, and James L. Banks, Jr., Chair, presiding (the Panel).

The Virginia State Bar appeared through its Assistant Bar Counsel, Edward L. Davis. The Respondent, Andrew Ira Becker, appeared in person *pro se*.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

Whereupon the Bar and the Respondent advised the Panel that they had entered into a written proposed Agreed Disposition pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13.B.5.c., and presented the same to the Panel.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Panel accepted the Agreed Disposition by unanimous decision.

I. FINDINGS OF FACT

The Disciplinary Board finds the following facts by clear and convincing evidence:

1. During all times relevant hereto, the Respondent, Andrew Ira Becker, was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In December 2005, Clifford McDole paid Mr. Becker \$900 in cash to prepare and file a petition for the restoration of Mr. McDole's driving privileges.
3. On December 30, 2005, Mr. Becker deposited the \$900 into one of his non-trust bank accounts. At the time, Mr. Becker had not prepared the petition or completed any work for his client.
4. In January 2006, at Mr. Becker's request, Mr. McDole delivered to Mr. Becker a Division of Motor Vehicles Compliance Summary. Purportedly, Mr. Becker gave this record to an administrative assistant to prepare Mr. McDole's petition for the restoration of his driving privileges.
5. No one, however, ever prepared Mr. McDole's petition.
6. Mr. McDole repeatedly contacted Mr. Becker about a court date, but none was ever scheduled.
7. According to Mr. McDole, Mr. Becker told him on more than one occasion to appear in court at a specific time for the petition to be heard.
8. Mr. McDole did as directed, but on each occasion there was nothing relating to him on the court's docket, and Mr. Becker never appeared.
9. On June 9, 2006, about six months after he hired Mr. Becker, and after repeated threats to do so, Mr. McDole complained to the Virginia State Bar.
10. On June 19, 2006, the bar sent the complaint to Mr. Becker, demanding a response in accordance with Rule 8.1 (c) of the Rules of Professional Conduct.
11. Mr. Becker, however, never responded to the bar complaint. Accordingly, on August 17, 2006, the bar referred the matter to the Second District Committee for a more detailed investigation.
12. On October 19, 2006, Mr. Becker explained to the bar's investigator that he meant to respond, but knew that he would see a bar investigator anyway. During a subsequent meeting on November 29, 2006 he provided a written response.
13. Mr. Becker acknowledged that he did not pursue the matter diligently, and that it "dragged and dragged." He acknowledged further that there was a day when he told Mr. McDole that there was a hearing date and that he truly believed that there would be a hearing then.
14. Mr. Becker also acknowledged that he should have withdrawn from the matter and refunded Mr. McDole's money in February or March 2006 when he had not set a hearing.

15. On December 21, 2006, Mr. Becker notified Mr. McDole that his \$900 was available for pickup, and Mr. McDole received his funds shortly thereafter.

II. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by Andrew Ira Becker constitutes misconduct in violation of the following 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

- (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.

RULE 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:
 - (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
 - (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

RULE 1.16 Declining Or Terminating Representation

- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

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; or

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that the Respondent's license to practice law in the Commonwealth of Virginia is hereby **SUSPENDED** for a period of **TWO (2) YEARS**, effective September 17, 2009, the day immediately after the last day of the current suspension of his Virginia law license, September 16, 2009.

Further, in accordance with the terms of the Agreed Disposition, the Panel having accepted the same, it is now final, non-revocable and non-appealable.

The Board notes that with respect to the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia, the Respondent has complied the Notice provisions of the Rules of Court concerning the appropriate notification of the suspension of his law license to his clients, judges, and opposing counsel in pending litigation.

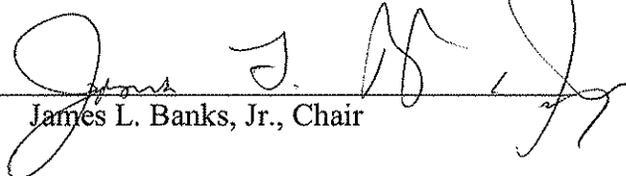
It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13.B.8.c.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a certified copy of this order to Andrew Ira Becker at his last address of record with the Virginia State Bar, Law Offices of Andrew Becker, P.L.C., Suite 200, 4164 Virginia Beach Boulevard, Virginia Beach, Virginia 23452 and by hand to Edward L. Davis, Assistant Bar Counsel, Virginia State Bar, Eighth and Main Building, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800.

Donna T. Chandler, RPR, RMR, of Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227 (804) 730-1222, was the court reporter for the hearing and transcribed the proceedings.

ENTERED: November 28, 2007

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: 
James L. Banks, Jr., Chair