

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF LAWRENCE RAYMOND MORTON, ESQUIRE

VS B Docket No. 04-053-1980

ORDER

This matter came before the Virginia State Bar Disciplinary Board on March 25, 2005 upon certification from the Fifth District –Section III Committee. The panel was chaired by Peter A. Dingman, 2nd Vice Chair. The other panel members were Glen M. Hodge, Ann N. Kathan, Bruce T. Clark and W. Jefferson O’Flaherty, lay member. The Virginia State Bar was represented by Seth M. Guggenheim, Assistant Bar Counsel . The Respondent, Lawrence Raymond Morton, appeared at the hearing acting pro se. The reporter for this hearing who transcribed the proceedings was Jennifer L. Hairfield, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, phone (804) 730 1222.

The Chair polled the panel members to determine whether any member had a personal or financial interest in the matter which might effect or reasonably be perceived to affect his or her ability to be impartial in this proceeding. Each member, including the Chair, verified that they had no such conflicts.

I. STIPULATED STATEMENT OF FACTS

At the commencement of the hearing, the Respondent and Bar stipulated to the following facts:

At all times relevant to the matters set forth herein, Lawrence Raymond Morton,

Esquire (hereafter "Respondent"), was an attorney licensed to practice law in the Commonwealth of Virginia.

2. In or around February of 1995, the Respondent was contacted by Mr. Tennie L. Kennedy (hereafter "Complainant") with respect to an injury the Complainant had sustained at his place of employment. On or about March 6, 1995, the Respondent accepted the Complainant as a client, and opened a case file in the matter. On April 3, 1995, the Respondent filed a claim on behalf of the Complainant with the Workers' Compensation Commission.

3. On April 21, 1995, the opposing parties (the employer and its insurer), through their counsel, propounded interrogatories to the Complainant which were served upon the Respondent. The Respondent failed to respond to the interrogatories. On May 19, 1995, opposing counsel sent a letter to the Respondent stating that the answers to interrogatories were overdue, and asking when he could expect to receive answers to the Interrogatories he had served. The Respondent failed to react or respond to this letter.

4. On May 25, 1995, the Worker's Compensation Commission ordered the Complainant, through notice sent to Respondent, to respond to the interrogatories within ten days, "or face possible sanctions, including dismissal of the claim." The Complainant was also "instructed to provide copies of all medical records, within his possession, to the employer and the Commission."

5. The Respondent did not respond to the Commission's May 25, 1995 directives.

As a result, on June 13, 1995, the Commission dismissed the Complainant's claim, with prejudice. The Commission's Order dismissing the claim contained a provision permitting an appeal of its ruling within twenty days following issuance of the Order. The Respondent took no action to appeal the Order.

6. At some point during the representation, the Respondent told the Complainant that a hearing in the matter had been postponed, and that he, the Respondent, would get back in touch with the Complainant regarding a new hearing date.

7. After the Complainant heard nothing further from the Respondent, the Complainant contacted the Commission and was told by a clerk that the Complainant's case had been closed.

8. The Respondent did not accurately and adequately inform the Complainant of the status of his legal matter as the claim progressed, did not inform him that the claim had been dismissed, did not advise him of the basis for such dismissal, and did not review with the Complainant his options regarding appeal of the Commission's Order dismissing the matter.

II. NATURE OF MISCONDUCT

The Panel finds from the stipulated evidence presented (and with the stipulation of Respondent) that the actions of the Respondent constitute misconduct in violation of the following provisions of the Virginia Code of Professional Responsibility:

DR 6-101. Competence and Promptness.

- (B) A lawyer shall attend promptly to matters undertaken for a client until completed or until the lawyer has properly and completely withdrawn from representing the client.
- (C) A lawyer shall keep a client reasonably informed about matters in which the lawyer's services are being rendered.
- (D) A lawyer shall inform his client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

DR 7-101. Representing a Client Zealously.

- (A) A lawyer shall not intentionally:

- (2) Fail to carry out a contract of employment entered into with a client for professional services, but he may withdraw as permitted under DR 2-108, DR 5-102, and DR 5-105.
- (3) Prejudice or damage his client during the course of the professional relationship, except as required under DR 4-101(D).

III. SANCTION

Following the finding of misconduct, the Bar presented the panel with a copy of the Respondent's disciplinary record. It was at this point that the Panel learned that the Respondent's license to practice was currently suspended and that over the past several years, the Respondent had received several sanctions from the bar, the general theme of such sanctions centering on the Respondent's apparent inability to adequately follow up on matters he undertakes.

Normally the evidence in the matter before the Panel in this hearing, when considered in conjunction with the Respondent's prior record, would place the Panel in the position of having to take extreme measures to assure the protection of the public. However, in this particular case, the occurrences being considered by the Panel in this hearing predate those for which the Respondent has previously been sanctioned. In addition, the Bar in its presentation acknowledged that the Respondent is an intelligent man possessing a high level of legal skills. It also acknowledged that the failures of the Respondent were in no manner motivated by his desire for personal gain. The Panel was favorably impressed with the Respondent's cooperation in this matter and his stipulations as to the evidence and Rule violations implicit in those admitted facts. For these reasons, the Panel is unwilling to find that the Respondent's behavior in this matter demonstrates a continuing disregard for his obligations. It is instead hoped that the sanctions

currently in place against the Respondent will have their desired effect and will dissuade the Respondent from future repetitions of his past unacceptable behavior.

Having determined the above, the Panel was nevertheless troubled by several statements made by the Respondent during the hearing, which statements raised concerns over whether the Respondent has yet to fully understand the nature of his problems and whether he is yet ready and able to accept his responsibilities in the matters which have brought him before the Bar.

In his presentation, the Respondent attempted to attribute his failure to adequately perform his duties upon situations involving the loss of his secretary and a failure in his office's computer systems caused in part by his personal lack of technical skills in this area. The Panel believes that such excuses are unacceptable. Problems with personnel and office system failures are not unique to the Respondent. They are the ongoing fact of life every practitioner faces at one time or another. When such situations arise, it is incumbent upon that practitioner to take whatever measures are needed to protect his client's interest, no matter how extreme.

It is the Panel's collective belief that the Respondent's actual problem stems from a lack of organization brought on by his failure to put into position the office procedures needed to assure his client's matters are properly tracked and managed. It is likewise the belief of the Panel that unless it imposes such practices upon the Respondent, it is highly likely that he will repeat his prior failures at some future date. Such an occurrence could not be tolerated.

It is for this reason that the Panel has decided to be proactive in this matter in order to aggressively address the problem at hand.

It is therefore ORDERED as follows:

That the Respondent, Lawrence Raymond Morton, is hereby given a PUBLIC REPRIMAND, with Terms:

1. Should the Respondent at any future time return to the practice of law, he will employ, at his sole expense, the services of a law office management consultant acceptable to the Virginia State Bar to assist him in organizing and structuring his practice. Thereafter, he shall fully follow such recommendations as he receives from his consultant and shall place into operation within his office all systems and procedures recommended by his consultant.

2. For a period of twelve months following the Respondent's return to practice, he shall permit the Bar to monitor his practice to assure that he is operating his office in full compliance with the recommendations he has received. This monitoring process shall include the submission to the Bar of review reports to be prepared by the Respondent's consultant. Such reports, which shall be made quarterly or more often as may be required by the Bar, shall be prepared at the Respondent's sole expense. In addition, if desired, the Respondent shall within the twelve month period, at any time and without notice, allow the Bar to examine his office procedures to assure ongoing compliance with this Order.

3. Should the Respondent fail to comply with the terms set forth herein, the Bar shall have

the right to issue a show cause against him. Should such show cause be issued and should the Respondent thereafter not be able to prove to this Board by clear and convincing evidence that he has in fact complied with the terms set forth herein, his license to practice law within the Commonwealth of Virginia shall be revoked.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent, by certified mail, return receipt requested, to his address of record with the Virginia State Bar, 17850 Curtis Drive, Dumfries, Virginia 22026 and shall deliver a copy of this to Seth M. Guggenheim, Assistant Bar Counsel, Virginia State Bar 100 North Pitt Street, Alexandria, Virginia 22314 – 3133.

It is further ORDERED that the costs of this matter shall be assessed against the Respondent in accordance with the Rules of the Supreme Court of Virginia, Part Six, and Section IV Paragraph 13.B.8.c.

ENTERED this 6th day of April, 2005.


Peter A. Dingman, Second Vice Chair
Virginia State Bar Disciplinary Board