

The Bar made opening statements and presented a number of witnesses. The Bar also and offered into evidence documents previously organized and identified as the Bar's Exhibit A, tabs numbered 1-24. In accordance with Pre-Hearing Conference ruling, and without objection, these were admitted. The Bar also offered exhibits organized and identified as additional tabs 25-29 of Exhibit A, as well as several deposition transcripts and affidavits from witnesses unavailable to testify at the hearing offered as Exhibit B, tabs numbered 1-4. Without objection, these were also admitted.

All such evidence was presented to support the Subcommittee Determinations (Certifications) upon which these matters had come before the Board and included, but was not necessarily limited to, the following:

As to multiple matters:

Prior to October 10, 2002, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia. On or about October 10, 2002, Respondent's Virginia law license was suspended due to her failure to meet her annual dues requirement. The Bar sent all notices required by law relating to her annual dues obligation and her subsequent suspension to Respondent's address of record with the Bar. To date, Respondent has not paid any of the dues owed by her to the Bar and her law license was ultimately cancelled on or about January 10, 2005 for her failure to satisfy her annual dues requirement for three consecutive years. Respondent's law license has been suspended (and subsequently cancelled) continuously since on or about October 10, 2002.

On or about June 5, 2003, Respondent's Virginia law license was suspended due to her failure to meet her annual Mandatory Continuing Legal Education ("MCLE") requirement. The

Bar sent all notices required by law relating to her MCLE obligations and her subsequent suspension to Respondent's address of record with the Bar. To date, Respondent has not satisfied her outstanding MCLE obligations and her license has been suspended continuously, for her failure to satisfy her MCLE obligations, since on or about June 5, 2003.

On or about January 13, 2010, Respondent's Virginia law license was suspended due to her failure to pay costs imposed by this Board following a finding of misconduct. The Bar sent all notices required by law relating to her obligation to pay costs and her subsequent suspension to Respondent's address of record with the Bar. To date, Respondent has not paid her costs and her license has been suspended continuously, for her failure to pay costs, since on or about January 13, 2010.

On or about May 12, 2010, Respondent's Virginia law license was suspended for her failure to comply with a subpoena *duces tecum* issued by the Bar in a pending Bar matter. The Bar sent all notices required by law relating to her obligation to comply with the subpoena and her subsequent suspension to Respondent's address of record with the Bar. To date, Respondent has not complied with the subpoena and her license has been suspended continuously, for her failure to comply with the subpoena, since on or about May 12, 2010.

Respondent herself signed for at least one of the suspension notifications mailed to her address of record.

During at least one of her interviews with a Bar investigator, Respondent told the investigator that several years after her child was born in August 1997, she contacted the Bar and requested that she be placed on "inactive" status and that she may have filed a form with the Bar to do so (although none was found in the Bar's files with respect to Respondent). She stated that

notwithstanding the multiple mailings the Bar sent to her address of record related to the suspensions and eventual cancellation of her license, she was not actually aware that her license was suspended until December 2009, when she was told by a Bar investigator interviewing her during the course of the Bar's investigation of another attorney, Donovan Thomas ("Mr. Thomas"). According to Respondent, she immediately contacted the Bar and confirmed that her license was suspended for her failure to fulfill her annual dues and MCLE requirements. While the Bar advised her that she could contest her suspension, she told the investigator that she "decided just to let the matter go."

As to VSB Docket No. 11-051-085131 (the Ruble Matter)

Nhut Trung Le filed a complaint of discrimination against his employer with the Alexandria Office of Human Rights ("AOHR"). In August 2010, Patricia L. Ruble, an Attorney Investigator with the AOHR, scheduled a mediation and asked Mr. Le to come to her office to review his employer's position statement. Mr. Le informed Ms. Ruble that he had retained Respondent as his attorney. On August 26, 2010, Respondent contacted Ms. Ruble, confirmed that she had been retained by Mr. Le, and scheduled a meeting at Ms. Ruble's office. However, prior to the scheduled meeting, Ms. Ruble confirmed with the Bar that Respondent's license to practice law in Virginia was suspended and that Respondent's license to practice in the District of Columbia was suspended as well.

On September 2, 2010, Respondent and Mr. Le met Ms. Ruble at Ms. Ruble's office. During the meeting, Respondent gave Ms. Ruble a letter of representation signed by Respondent and captioned: "Law Offices of Barbara L. Brackett, Attorneys and Counselors at Law." In her letter, which was addressed to Ms. Ruble, Respondent stated that she represented Mr. Le in his

discrimination complaint. When Ms. Ruble confronted Respondent with the question as to Respondent's Virginia license having been suspended, Respondent acknowledged that there had been "issues" with her license, but that those "issues" had been resolved, and that Respondent felt she was able to represent Mr. Le as she was licensed in the District of Columbia. When Ms. Ruble told Respondent that she had learned that Respondent's law license was also suspended in the District of Columbia, Respondent asked Ms. Ruble to return the representation letter, which she did but only after making a copy for her records. Respondent then said she had to tend to a parking meter and left the office, promising to return shortly. Respondent never returned to the office and Mr. Le left soon thereafter left by himself.

Ms. Ruble filed a complaint with the Bar on September 7, 2010 and a copy of the complaint was forwarded to Respondent at her address of record under cover letter demanding a response. Respondent never filed a response or responded to a Bar investigator's numerous attempts to contact her. On October 27, 2010, the Bar served on Respondent a subpoena *duces tecum* requesting documents related to Respondent's representation of Mr. Le. Respondent never responded to the subpoena.

As to VSB Docket No. 10-051-081366 (the Rollins Matter)

On or about August 28, 2009, Respondent purchased furniture and/or other items from the Design House, a store owned and operated by Heather Rollins. Respondent paid for the furniture with a personal check drawn on a Sun Trust Bank account in the amount of \$1,319.85, made payable to the Design House, and signed by Respondent. Sun Trust returned the check unpaid because it was drawn on a closed account. Ms. Rollins contacted Respondent, who assured Ms. Rollins that she would pay the outstanding balance. Over the next several months

and multiple telephone calls from Ms. Rollins, Respondent made repeated promises and appointments to come to Ms. Rollins' store to pay the account, but failed to do so. During one conversation Respondent stated that her "boyfriend" would call Ms. Rollins and pay off the account. This never occurred.

On or about October 20, 2009, Respondent provided Ms. Rollins with a credit card number and stated that the account belonged to a "client" who had authorized a charge of \$500. Ms. Rollins contacted the client, Vinh Dang, to confirm his authority to make the charge. Instead, while he confirmed that the account was his, Mr. Dang denied having authorized the transaction in question. Mr. Dang had previously hired Respondent to handle a loan modification and file a complaint with the EEOC. While Mr. Dang previously paid some of Respondent's bills at Respondent's request (which was credited towards his various legal bills with Respondent), he had not given permission for Respondent to make the \$500 transaction towards Respondent's account with Ms. Rollins. Mr. Dang told Ms. Rollins not to conduct the transaction and immediately cancelled his account.

On or about November 5, 2009, Ms. Rollins turned the matter over to the Commonwealth's Attorney. On or about November 30, 2009, and before a prosecution was undertaken, Respondent satisfied her obligation to Ms. Rollins.

As to VSB Docket No. 10-051-080672 (the Yang Matter)

Complainant Kailey Yang referred Tom and Helen Le to Respondent to remove a mechanic's lien previously placed on the Le's property. The Les paid Respondent \$1,500 and executed a document entitled "Retainer Agreement" on or about March 5, 2009. This document identified the law firm as "Bracket & Associates, Attorneys and Counselors at Law." However,

Respondent had no associates and her license to practice law was not in good standing. The document also characterized the money paid by the Les as a "non-refundable fee [paid]...in order to retain attorney" and further stated that the fee was "earned when received in exchange for the reservation of the attorneys' time and resources." Respondent signed the agreement and immediately cashed the Les' check rather than depositing it into a client trust account.

Respondent told Mr. Le a week later that a petition to release the mechanic's lien had been filed with the Court. She made no further communications with the Les despite the Les repeated attempts to contact her. On August 14, 2009, Ms. Yang filed a bar complaint against Respondent. A copy of the complaint was forwarded to Respondent at her address of record under cover letter demanding a response. Respondent never filed a response. In addition, incident to the investigation of the complaint, Respondent was served with a subpoena *duces tecum*. However, she did not comply with same.

During an interview with an investigator from the Bar, Respondent acknowledged that she represented the Les in an action to remove a mechanic's lien from the Les property. She stated that she received money for legal services rendered by her, not only from the Les, but also from assisting Mr. Thomas handle uncontested divorce cases. Despite this admission, Respondent stated that she had not identified herself as an attorney to anyone, nor practiced law, since October 10, 2002. She claimed that she was an independent contractor to Mr. Thomas and, notwithstanding her execution of the Les' Retainer Agreement, any funds received by her were for work she performed on Mr. Thomas' behalf. She could provide no records of the cases she worked on for Mr. Thomas.

In fact, the court granted the Les petition to release the mechanic's lien (which was filed and endorsed by Respondent on behalf of the Les while she was not licensed) by order dated September 9, 2009. Respondent never contacted the Les to inform them that the order was entered or that she was not licensed.

As to VSB Docket No. 10-051-083123 (the Ton Le Matter)

Through Mr. Thomas, Ton Le was referred to Respondent to handle a litigation matter in Virginia. Mr. Le retained Respondent who subsequently appeared as counsel of record on behalf of Mr. Le in the Alexandria City Circuit Court in the case styled *Innovative Design v. Tu Phung et al.*, Case No. CL09002022 filed on March 7, 2009. Respondent did not file any responsive pleading to the defendant's counterclaim or further pursue the case. Respondent failed to respond to multiple communications from the court and opposing counsel related to the case. She did, however, non-suit Mr. Le's case without prior notice to opposing counsel, who appeared in court on the scheduled trial date with multiple witnesses prepared for trial. After learning of the non-suit, opposing counsel filed a claim for sanctions, which was ultimately awarded by the court but to date remains unpaid. Opposing counsel proceeded with his client's counterclaim against Mr. Le, and because Respondent failed to file a responsive pleading or otherwise respond to multiple communications from both the court and opposing counsel, the court awarded a judgment in favor of opposing counsel's client against Mr. Le in the amount of \$91,000. However, she did not apprise Mr. Le of the judgment.

Mr. Le subsequently filed a complaint with the Bar, who forwarded a copy of the complaint to Respondent at her address of record under cover letter demanding a response. On April 14, 2010, Respondent filed a written response stating the following:

“I did not prepare any of these pleadings, nor did I sign any of these pleading nor have I ever met Mr. Le. I was never retained as his attorney. I did not authorize the preparation of any of these pleadings that appear to have been prepared in my name nor did I authorize the signatures or any filing done in my name in this case. I appear to have been the victim of identity theft in this matter with someone preparing pleadings in my name without my consent, authorization, or knowledge. And any signature thereon is a forgery.”

During an interview with a Bar investigator, Respondent admitted to the investigator that she had performed work on uncontested divorces for Mr. Thomas at the Alexandria courthouse. She described the work she performed for Mr. Thomas as “assistance” and that Mr. Thomas offered her “a couple hundred dollars” on each case for assisting him.

As to VSB Docket No. 09-051-079535 (the Dunn Matter)

On or about May 12, 2009, Danielle Dunn, an employee of GEICO Insurance Company (“GEICO”), filed a complaint with the Bar alleging that Respondent and Mr. Thomas were illegally practicing law under a business identified as One Stop Professional Services, Inc. (“One Stop”). Ms. Dunn’s inquiry on behalf of GEICO began when she determined that One Stop shared the same address with a chiropractor’s office subject to a number of claims handled by GEICO. She filed her complaint after confirming that Respondent and Mr. Thomas were practicing law as attorneys under One Stop and that neither were licensed to practice law in Virginia. GEICO’s investigation related to insurance claims filed with GEICO by an attorney associated with One Stop by the name of Mr. Thomas. The investigation identified a magazine located in One Stop’s offices containing an advertisement listing both Respondent and Mr. Thomas as attorneys at One Stop.

On or about February 26, 2010, the Bar properly served on Respondent at her address of record a subpoena *duces tecum* requesting Respondent to produce certain documents relating to

her involvement with One Stop. Respondent never responded to the subpoena. However, on June 4, 2009, Respondent filed a written response to Ms. Dunn's complaint wherein she denied any involvement with the magazine advertisement.

A Bar investigator interviewed Respondent on August 16, 2010. Respondent told the investigator that she was not an employee of One Stop, was not associated with Mr. Thomas, but that she was an independent contractor to Mr. Thomas. She could produce no records of any case she worked on for Mr. Thomas. She further claimed that because any funds received by her were for work performed by her on behalf of Mr. Thomas, such funds were earned when received and she did not deposit any of them into a trust account.

Respondent told the investigator that she has not identified herself as an attorney to anyone nor practiced law since October 10, 2002. However, this was the same investigator to whom she had conceded that she represented Ton Le with respect to a mechanics lien (see Ton Le Matter above) and that she has received money for legal services rendered by her, including Mr. Le's case and several uncontested divorces she assisted Mr. Thomas with, all since October 10, 2002.

Respondent also admitted to the investigator that she had received the subpoena *duces tecum* dated February 26, 2010 with respect to the Dunn matter, but determined that she did not have any documents responsive to the subpoena so decided not to respond at all. She further acknowledged receiving later correspondence from the Bar related to the subpoena *duces tecum* informing her that her failure to respond could result in the suspension of her law license, but again decided not to respond because she had no documents responsive to the subpoena.

FINDING OF MISCONDUCT

After hearing all evidence and argument, the Board recessed to deliberate. After due deliberation, the Board reconvened and the finding was announced that the Bar had proven, by clear and convincing evidence, that the Respondent had violated the following provisions of the 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.

with respect to the Yang matter.

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

- (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.

with respect to the Yang matter.

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.

with respect to the Yang matter.

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.

(c) 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 accounts to the client regarding them

with respect to the Yang matter.

RULE 3.3 Candor Toward a Tribunal

(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal.

with respect to the Yang matter.

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.

with respect to the Ruble matter.

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.

with respect to the Yang matter, the Ton Le matter, the Ruble matter and the Dunn matter.

RULE 7.5 Firm Names and Letterheads

- (a) A lawyer or law firm may use or participate in the use of a professional card, professional announcement card, office sign, letterheads, telephone directory listing, law list, legal directory listing, website, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1 and 7.2.
- (d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

with respect to the Yang matter and the Ruble matter.

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;
- (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;
- (d) obstruct a lawful investigation by an admissions or disciplinary authority.

with respect to the Yang matter (8.1 (a) and (c)), the Ton Le matter (8.1(a)), the Rollins matter (8.1(a) and (c)), the Ruble matter (8.1(a) and (c)) and the Dunn matter.

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;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyers fitness to practice law.

with respect to the Yang matter, the Rollins matter, the Ton Le matter (8.4(b) and (c)), the Ruble matter and the Dunn matter (8.4 (b)).

It was further announced that, in the Ruble matter, the Bar had not proven a violation of Rule 8.1(d) by clear and convincing evidence.

The Board then heard argument with respect to sanction as well as aggravating and mitigating circumstances. After the Board recessed to deliberate, and after due deliberation, the hearing was reconvened and the Chair announced the determination that the Respondent's license to practice law in the Commonwealth of Virginia be revoked immediately.

Accordingly, and in conformance with the Board's Summary Order previously entered, it is ORDERED that the license of the Respondent, Barbara Lyn Brackett, to practice law in the Commonwealth of Virginia is hereby **REVOKED** effective August 26, 2011.

It is further ORDERED that Respondent must comply with the requirements of Part 6, Section IV, Paragraphs 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 revocation of her license to practice law in the Commonwealth of Virginia, to all clients for whom she 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 her care, in conformity with the wishes of her clients. Respondent shall give such notice within fourteen (14) days of the effective date of the revocation and make such arrangements as are required herein within forty-five (45) days of the effective date of the revocation. Respondent shall furnish proof to the Bar within sixty (60) days of the effective date of the revocation that such notices have been timely given and such arrangements made for the disposition of matters. The Board shall decide all issues concerning the adequacy of the notice and arrangements required herein and may impose additional sanctions for failure to comply.

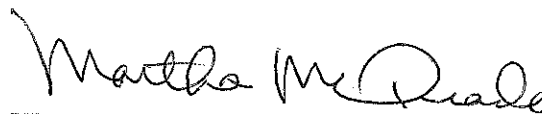
It is further ORDERED that if Respondent is not handling any client matters on the effective date of the suspension, she shall submit an Affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar.

It is further ORDERED that, pursuant to Part 6, Section IV, Paragraphs 13-9 E of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess all costs in this matter against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall send an attested copy of this Order by certified mail to the Respondent, Barbara Lyn Brackett, at her address of record, that being 125 Carter Court, Vienna, VA 22180, and by regular mail to 9486 Virginia Center Blvd, Unit 419, Vienna, VA 22181-4806 and 8210 Crestwood Heights Drive, #503, McLean, VA 22102; and also by regular mail to Assistant Bar Counsel Kathleen M. Uston, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED November 16, 2011.

VIRGINIA STATE BAR DISCIPLINARY BOARD

A handwritten signature in cursive script, reading "Martha JP McQuade". The signature is written in black ink and is positioned above a horizontal line.

Martha JP McQuade, First Vice Chair