

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF GREGORY LEE CASSIS

**VS. DOCKET NO. 13-033-094712
13-033-095432**

AGREED DISPOSITION MEMORANDUM ORDER

On October 28, 2014, 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., 2nd Vice Chair, Pleasant S. Brodnax, III, Anderson Wade Douthat, IV, Lay Member, Jeffrey L. Marks and Esther J. Windmueller. The Virginia State Bar was represented by Edward L. Davis, Bar Counsel. Gregory Lee Cassis was present and represented by Leslie A. T. Haley. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter Jennifer L. Hairfield, 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.

WHEREFORE, upon consideration of the Agreed Disposition, the Certification, Respondent's Disciplinary Record and any responsive pleadings of counsel,

It is **ORDERED** that the Board accepts the Agreed Disposition and the Respondent shall receive a Public Reprimand with Terms, as set forth in the Agreed Disposition, which is attached to this Memorandum Order.

It is further **ORDERED** that the Public Reprimand with Terms is effective upon entry of this order.

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 to Gregory Lee Cassis, at his last address of record 2819 N. Parham Road, Suite 110, Richmond, Virginia 23294-4425 with the Virginia State Bar and to Leslie A. T. Haley, Counsel for Respondent, Haley Law PLC, P.O. Box 943, Midlothian, Virginia 23113, and hand-delivered to Edward L. Davis, Bar Counsel, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-3565.

ENTERED THIS 30th DAY OF October, 2014

VIRGINIA STATE BAR DISCIPLINARY BOARD

**William H.
Atwill, Jr.**

Digitally signed by William H.
Atwill, Jr.
DN: cn=William H. Atwill, Jr.,
o=Atwill, Troxell & Leigh, PC, ou,
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William H. Atwill, Jr., 2nd Vice Chair

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
GREGORY LEE CASSIS

VSB Docket No. 13-033-094712
VSB Docket No. 13-033-095432

AGREED DISPOSITION
(Public Reprimand with Terms)

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 Edward L. Davis, Bar Counsel and Gregory Lee Cassis, Respondent, and Leslie Ann Takacs Haley, Respondent's counsel, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. During all times relevant hereto, the Respondent, Gregory Lee Cassis, was an attorney licensed to practice law in the Commonwealth of Virginia.

13-033-094712

Complainants: Taylor Brinkly Stone, Esq., and Larry Hogan, Esq.

2. Prior to October 30, 2012, Respondent was appointed to represent Jonathan Simpson in a circuit court appeal of a misdemeanor marijuana conviction. On the morning of October 30, 2012, while reviewing the dockets at the Henrico County Circuit Court, Respondent noticed that client Simpson had a case set for hearing in the circuit court that morning.
3. The case on the docket was not Respondent's but a third offense felony petit larceny case for which another attorney had been appointed.
4. Simpson's attorney for the felony larceny case was Taylor Stone, who had served as Simpson's court-appointed counsel in the case since June, 2012. Stone would say that he had negotiated a plea agreement for Simpson in the larceny case for the Commonwealth to recommend a sentence within the guidelines range of one day to six months of incarceration in return for his plea of guilty, which would have been presented to the Court that day.

5. Notwithstanding the fact that Respondent was neither retained nor appointed to represent Simpson in the felony larceny case, Respondent went to the courtroom around 9:00 a.m. and discussed a plea with the prosecutor on duty who also offered a sentence within the guidelines range of one-day to six months in return for a plea of guilty. He then met with Simpson before the trial began, researched the sentencing guidelines, and advised him of the Commonwealth's offer.
6. Court convened at 9:00 a.m., called the Simpson felony larceny matter at 9:42 a.m., and Simpson pled guilty to the charge. The court found Mr. Simpson guilty in accordance with his plea. The prosecutor argued for a sentence at the high end of the guidelines range and the court sentenced Simpson to one year in jail instead of the one day to six months previously negotiated by Mr. Stone. The matter concluded at 10:00 a.m.
7. Before leaving court, Respondent filled-out, signed, and filed with the Circuit Court a court-appointed billing for Simpson's felony case. Notwithstanding his lack of any prior involvement in the case before that morning and the lack of any attorney-client relationship by either retainer or appointment, he claimed three hours of work out of court. For his court time, he claimed two hours, although court had convened at 9:00 a.m. and the matter concluded at 10:00 a.m. Respondent would say that on information and belief at that point in time Respondent believed that he was court-appointed to represent Simpson on this felony charge and that he had in fact expended out of court time on the matter, though in retrospect it was likely Simpson's other matter. Respondent asserts further that Respondent had been engaged in Simpson's matter that very morning at the courthouse as he discussed the plea with the prosecutor and then met with Simpson, all of which for billing purposes is considered court time.
8. Simpson's appointed attorney for the larceny case, Stone, would say that he was not present when the case was called because he was concluding another matter in a different courtroom at the time.
9. Stone would also say that when he learned what Respondent had done with his client's case, he located Respondent who did not offer to take any steps to remedy the mistake.
10. On November 13, 2012, Stone moved the court to vacate Simpson's one-year sentence and obtained a retrial for his client. The court set aside the previously imposed one-year sentence won by Respondent, and on December 18, 2012, imposed the six-month sentence previously negotiated by Mr. Stone. Respondent was not present for any of these matters.
11. In the course of the bar's investigation of this matter, the bar interviewed Respondent on January 29, 2014. With regard to his fee submission to the Court for 5 hours Respondent claimed that he had confused the larceny case with another felony larceny case that he resolved in the general district court, as well as the misdemeanor

marijuana appeal case, and that his billing included time in the general district court as well as the circuit court.

12. Court records, however, reflect that he concluded two felony larceny cases in the general district court by guilty plea, but that neither case involved client Simpson.
13. Court records also indicate that in Simpson's misdemeanor marijuana case, Respondent submitted a claim for fees in the general district court on August 8, 2012, the trial date, and that his claim was certified for payment.
14. Further, court records reflect that the circuit court previously removed Respondent from Simpson's misdemeanor marijuana appeal on October 25, 2012, and appointed another attorney to conclude the matter in his stead after three settings at which Respondent did not appear on September 13, 2012, September 25, 2012 and October 25, 2012, the last of which Respondent erroneously scheduled opposite another court commitment and moved for a continuance which the court denied.
15. Although Respondent received \$445 (the statutory court-appointed maximum) from the Commonwealth for his five-hour claim, he failed to return the fees until months later on March 4, 2013, when he responded to the bar complaint.

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.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;

- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

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

III. STIPULATIONS OF FACT (Continued)

13-033-095432

Complainant: Dr. Michael Thomas McCurdy

16. On September 17, 2012, Respondent defended Dr. Thomas McCurdy, a Maryland resident, on a charge of reckless driving in the General District Court for the City of Fredericksburg.
17. On Mr. Respondent's motion, the court withheld a finding of guilty and agreed to take the matter under advisement pending completion of driver improvement school and payment of \$81 to the court by November 9, 2012. If all conditions were met, the court would dismiss the matter. The client was not present at the hearing.
18. By letter, dated September 17, 2012, Respondent immediately advised his client of the outcome and the conditions to be met.
19. Due to a series of mishaps, the client could not deliver an original driver improvement course certificate to the court on time.
20. As a result, on November 19, 2012, the court entered a finding of guilty, imposed a fine and made its judgment effective November 9, 2012, possibly depriving the client of the opportunity to appeal the matter to the circuit court.
21. The client then contacted Respondent about potential recourses. A series of email exchanges and telephone calls concerning a petition for rehearing followed.

22. By email, dated November 30, 2012, Mr. Cassis told his client "Regarding your case I haven't heard anything regarding your petition for rehearing. I will follow-up on Monday to see if the judge has granted a court date for the matter."
23. Notwithstanding Respondent's apparent representation that he had filed a petition for rehearing, he had not done so.
24. Although his client repeatedly expressed concern and sought information about the matter in emails, dated November 30, 2012 and December 8, 2012, Respondent failed to respond to his client's inquires until March 29, 2013, when Respondent told him that nothing had changed since November 2012.

IV. NATURE OF MISCONDUCT

13-033-095432

Complainant: Dr. Michael Thomas McCurdy

RULE 1.3 Diligence

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

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 8.4 Misconduct

It is professional misconduct for a lawyer to:

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

V. PROPOSED DISPOSITION

Accordingly, Bar Counsel and the Respondent tender to the Disciplinary Board for its approval the agreed disposition of (Public Reprimand with Terms) as representing an appropriate

sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. The terms with which the Respondent must comply are as follows:

1. Respondent is not accepting any clients for legal matters at this time, and will accept no clients for any legal matters for a period of twelve (12) months from the date that the Disciplinary Board enters an order approving this Agreed Disposition. For clarification, accepting no clients for any legal matters means that Respondent will not work as an associate for another attorney during the 12-month period in any way that will involve his provision of client services to anyone, nor will he seek or accept any offer of employment during the 12-month period that will involve the provision of client services by Respondent to anyone. It also means that Respondent will not represent, advise or handle any new legal matter for any client during the 12-month period.
2. As soon as possible, but no later than thirty (30) days from the date that the Disciplinary Board enters an order approving this Agreed Disposition, Respondent will request removal of his name from the lists of court-appointed attorneys at all courts, state and federal, where he has been approved to receive court-appointed clients.
3. Within sixty (60) days of the date that the Disciplinary Board enters an order approving this Agreed Disposition, Respondent will obtain an evaluation from Lawyers Helping Lawyers.
4. Respondent will comply with all terms recommended by Lawyers Helping Lawyers, if any, and will ensure that Lawyers Helping Lawyers furnishes an initial written report to the Bar Counsel's Office by May 1, 2015, addressing whether he has (1) obtained the evaluation and (2) complied with any terms recommended by Lawyers Helping Lawyers. Respondent will ensure that Lawyers Helping Lawyers furnishes a second written report to the Bar Counsel's office by November 1, 2015, also addressing his compliance with any terms recommended by Lawyers Helping Lawyers. Respondent is responsible for ensuring that Lawyers Helping Lawyers furnishes the two written reports to the Bar Counsel's Office by the dates indicated.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, all the terms and conditions are not met by the deadlines imposed above, the Respondent agrees that the Disciplinary Board shall impose a **Six-Month Suspension of his License to Practice Law** in the Commonwealth of Virginia pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

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

THE VIRGINIA STATE BAR

Edward L. Davis

By: _____

Edward L. Davis, Bar Counsel

Gregory Lee Cassis

Gregory Lee Cassis, Respondent

Leslie Ann Takacs Haley

Leslie Ann Takacs Haley, Respondent's Counsel