

VIRGINIA:

Before the Virginia State Bar Disciplinary Board

In the Matter of
Shelly Renee Collette

VSJ Docket Nos. 17-000-109602, 16-070-106417, 17-070-109171, 17-070-107402,
17-070-109713, 17-070-109327, 17-070-108513, 17-070-108583
and 17-070-109688

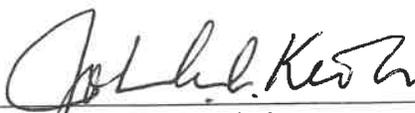
CONSENT TO REVOCATION ORDER

On March 23, 2018, came Shelly Renee Collette, and presented to the Board an Affidavit Declaring Consent to Revocation of her license to practice law in the courts of this Commonwealth. By tendering her Consent to Revocation at a time when allegations of Misconduct are pending, the nature of which are specifically set forth in the attached affidavit, Respondent acknowledges that the material facts upon which the allegations of Misconduct are pending are true.

The Board having considered the said Affidavit Declaring Consent to Revocation, and Bar Counsel having no objection, the Board accepts her Consent to Revocation. Accordingly, it is ordered that the license to practice law in the courts of this Commonwealth heretofore issued to the said Shelly Renee Collette be and the same hereby is revoked, and that the name of the said Shelly Renee Collette be stricken from the Roll of Attorneys of this Commonwealth.

Entered this 23rd day of March, 2018

Virginia State Bar Disciplinary Board

By 
John A.C. Keith, Chair

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BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
SHELLY RENEE COLLETTE

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	16-070-106417
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AFFIDAVIT DECLARING CONSENT TO REVOCATION

Shelly Renee Collette, after being duly sworn, states as follows:

A. That Shelly Renee Collette was licensed to practice law in the Commonwealth of Virginia on 10/17/2007;

B. That Shelly Renee Collette submits this Affidavit Declaring Consent to Revocation pursuant to Rule of Court, Part 6, Section IV, Paragraph 13-28.

C. That Shelly Renee Collette's consent to revocation is freely and voluntarily rendered, that Shelly Renee Collette is not being subjected to coercion or duress, and that Shelly Renee Collette is fully aware of the implications of consenting to the revocation of her license to practice law in the Commonwealth of Virginia;

D. That Shelly Renee Collette is aware of allegations of misconduct currently pending before the Disciplinary Board. The specific nature of these allegations is described below.

1. With regard to VSB docket number 17-000-109602, Respondent failed to notify clients, courts, and opposing counsel of suspensions of her law license in violation of Paragraph 13-

29 of the Rules of the Supreme Court of Virginia. Pursuant to Paragraph 13-29, Respondent's license to practice law may be suspended or revoked.

VSB 16-070-106417
(Complainant Matt Reed Huffman)

2. On or about July 9, 2015, Matt Reed Huffman hired Respondent to assist him in being appointed successor trustee for a trust under his brother's will. That day Mr. Huffman signed Respondent's retainer agreement and paid Respondent \$3,000.00 as an advanced legal fee. Respondent did not deposit these funds into her trust account.
3. Ms. Collette performed little productive work on Mr. Huffman's behalf and did not have him appointed as successor trustee.
4. Respondent did not keep Mr. Huffman apprised of the status of his legal matter.
5. Respondent failed to render to Mr. Huffman appropriate accountings of her time spent on the matter.
6. In or about March 2016, Mr. Huffman hired attorney P. Elizabeth Pirsch to assist him in being appointed successor trustee for the trust under his brother's will. On April 8, 2016, Ms. Pirsch succeeded in having Mr. Huffman and herself appointed as co-trustees.
7. By letter dated March 18, 2016, on behalf of Mr. Huffman, Ms. Pirsch demanded that Respondent provide Mr. Huffman a refund. Respondent did not respond.
8. By letter dated May 7, 2016, Mr. Huffman demanded that Respondent provide him with a refund. Respondent did not respond.
9. On November 30, 2016, on behalf of Mr. Huffman, Ms. Pirsch filed a Warrant in Debt against Respondent in Fairfax General District Court. On January 10, 2017, the matter was heard and a default judgment was entered against Respondent in the amount of \$3,000.00 plus interest and costs.
10. On June 27, 2016, Mr. Huffman filed a bar complaint against Respondent. Respondent did not respond to the bar complaint.
11. As part of its investigation, the bar issued subpoenas *duces tecum* to Respondent for her entire client file and trust account records related to her representation of Mr. Huffman. Respondent did not timely respond to the subpoenas. Only after the Virginia State Bar Disciplinary Board suspended Respondent's license to practice law for failure to comply with the bar subpoenas did Respondent provide the records sought by the subpoenas.

- 12. Respondent's conduct in this case constitutes misconduct in violation of the following Rules of Professional Conduct: Rule 1.3(a) (diligence), Rule 1.4(a) (communication), Rule 1.15(a), (b)(3), (b)(4), and (b)(5) (safekeeping property).

VSB 17-070-109171
(Complainant Taylor F. Finley, IV)

- 13. In or about April 2015, the complainant, Taylor F. Finley, IV, retained Respondent to represent in him divorce and custody matters in Frederick County Circuit Court.
- 14. On or about April 29, 2015, Mr. Finley paid Respondent an advanced legal fee of \$2,500.00. Respondent did not deposit these funds into her trust account. Mr. Finley went on to pay Respondent several more thousand dollars over the course of the representation.
- 15. On April 5, 2016, the Court entered a Domestic Pretrial Order, which set a trial date of August 23, 2016 and required certain filings by the parties including itemized affidavits, findings of fact and conclusion of law, witness and exhibits lists.
- 16. Respondent received the Domestic Pretrial Order, made notations of time deadlines on the order.
- 17. On or about August 19, 2016, opposing counsel filed a motion to strike Mr. Finley's case for failure to comply with the Domestic Pretrial Order.
- 18. On August 23, 2016, Respondent appeared in court, but with the Court's permission left to represent another client in a different courtroom. The Court and the parties waited nearly an hour for Respondent to return.
- 19. When Respondent returned, the Court heard the motion to strike.
- 20. The Court granted the motion to strike and in doing so, struck Mr. Finley's counterclaim and precluded him from presenting any documentary evidence or calling any witnesses other than himself.
- 21. Respondent's conduct in this matter violated the following Rules of Professional Conduct: Rule 1.3(a) (diligence), Rule 1.15(a) (safekeeping property).

VSB Docket Number 17-070-109713 (VSB)

- 22. On January 23, 2017, Winchester Truck Repair, LLC filed a warrant in debt in Frederick-Winchester General District Court against KL Price Trucking, LLC for civil damages. On

April 6, 2017, Respondent appeared at the return date and entered an appearance for the defendant. The court ordered that a bill of particulars and responsive pleadings be filed.

- 23. On April 27, 2017, the plaintiff filed a bill of particulars. Responsive pleadings were due May 18, 2017.
- 24. Respondent did not file a grounds of defense or any responsive pleadings on behalf of the defendant by May 18, 2017. Instead, she filed a late grounds of defense on June 2, 2017.
- 25. On June 22, 2017, summary judgment was awarded in favor of the plaintiff against the defendant, Respondent's client, on the grounds that no responsive pleading was timely filed. The plaintiff was also awarded attorney's fees in the amount of \$4,199.44.
- 26. On June 22, 2017, Respondent noticed an appeal of the summary judgment on behalf of the defendant.
- 27. On July 24, 2017, Respondent filed a motion for new trial and a hearing was set for August 3, 2017.
- 28. On August 3, 2017, Respondent called the clerk of court and said she could not appear at the hearing scheduled that day because she was taking care of a sick child. Respondent advised that the court should rule on the motion in her absence. The motion for new trial was denied.
- 29. During the course of her representation of KL Price Trucking LLC, Respondent's license to practice law was suspended by the Virginia State Bar Disciplinary Board from April 12, 2017 to April 21, 2017. Respondent violated the Board order suspending her license and Part 6, Section IV, Paragraph 13-29 of the Rules of Court by failing to notify her client or opposing counsel of her suspension.
- 30. Respondent's conduct in this matter violated the following Rules of Professional Conduct: Rule 1.3(a) (diligence), Rule 1.4(a) (communication).

FACTUAL ALLEGATIONS PERTAINING TO
VSB. NOS. 17-070-108513, 17-070-108583
AND 17-070-109688
(Complainant: VSB)

- 31. As set forth in the paragraphs below, Respondent has repeatedly failed to appear in court. In the past, this conduct has caused injury to her clients and the courts.
- 32. By failing to appear in court on numerous occasions as described below, and by appearing in court to represent various clients when her license was under suspension as described below, Respondent failed to provide competent representation to her clients in violation of Virginia

Rule of Professional Conduct ("RPC") 1.1.

33. By failing to appear in court on numerous occasions as described below, Respondent failed to exercise diligence in representing her clients in violation of RPC 1.3(a) and habitually or intentionally violated the established rules of various courts and disrupted the proceedings in violation of RPC 3.4(g).
34. By failing to advise various clients that she would not be present at their hearings as described below, Respondent violated RPC 1.4(a).

Instances of Failure to Appear

October 12, 2016 failure to appear

35. On October 12, 2016, Respondent failed to appear for a bond hearing in Winchester General District Court ("GDC") in the case of *Commonwealth v. Joyner*, case no. GC16003101-00. As a result of Respondent's failure to appear, the courtroom proceedings were disrupted and Respondent's client did not receive a bond hearing on that date as scheduled.
36. Judge Ian R.D. Williams issued a show cause against Respondent for failure to appear. At the show cause hearing, Respondent stated that she had been in Juvenile and Domestic Relations Court (JDR) at the time of the October 12, 2016 bond hearing. The show cause was dismissed by Judge Amy B. Tisinger.

December 9, 2016 failure to appear

37. On December 9, 2016, Respondent failed to appear in the Loudoun County Circuit Court for a review hearing in *Commonwealth v. White*, case no. 28454-00. As a result of Respondent's failure to appear, the courtroom proceedings were disrupted and the case was continued.
38. Following this failure to appear, Judge Burke F. McCahill issued a rule to show cause against Respondent. At the show cause hearing, Respondent correctly stated that her license to practice law had been under interim suspension on December 9, 2016. The show cause was dismissed.

January 23, 2017 failure to appear

39. On January 23, 2017, Respondent failed to appear in the Loudoun County Circuit Court for a sentencing hearing in *Commonwealth v. White*, case no. 28454-00. Respondent did not communicate to her client that she would not be appearing. As a result of Respondent's failure to appear, the courtroom proceedings were disrupted and sentencing for Respondent's client did not go forward on that date. The client's mother had driven from North Carolina to

Loudoun County for the sentencing hearing.

40. Respondent gave two excuses for her failure to appear on January 23, 2017: first, that she had not received the sentencing guidelines in a timely manner; and second, that inclement weather in Winchester impeded her travel to the court. The courts in Winchester were open on January 23, 2017.
41. Judge J. Howe Brown, Jr. issued a rule to show cause against Respondent for her failure to appear at the January 23, 2017 hearing.
42. On February 8, 2017 following a show cause hearing, Judge Brown found Respondent in contempt of court and ordered her to pay the travel expenses of her client's mother, write a letter of apology to her client's mother and the court, and provide proof of compliance with these terms by February 14, 2017 in order to purge herself of contempt. If Respondent did not file the required proof, Judge Brown ordered her to appear in his courtroom on February 14, 2017 at 9:00 a.m. Respondent did not provide proof of compliance prior to 9:00 a.m. February 14, 2017.

February 14, 2017 failure to appear

43. On February 14, 2017 at 9:00 a.m., Respondent failed to appear in the Loudoun County Circuit Court for a hearing arising out of her failure to comply with the terms that Judge Brown had imposed at the February 8, 2017 show cause hearing. Judge Brown was presiding, and at his direction, the clerk called the Respondent to inform her that she had failed to appear for the 9:00 a.m. hearing.
44. At approximately 2:00 p.m. on February 14, 2017, Respondent appeared before Judge Brown in the Loudoun County Circuit Court. At that time, she provided proof of compliance with the terms of Judge Brown's February 8, 2017 order. Judge Brown took no further action but advised Respondent that he would be notifying the Virginia State Bar of her conduct, which he subsequently did by letter dated February 22, 2017.

April 14, 2017 failure to appear

45. On April 14, 2017, Respondent failed to appear for her client's Virginia Alcohol Safety Program (VASAP) compliance review in Winchester GDC in the case of *Commonwealth v. Cirasa*, case no. GC15003713-01. As a result of Respondent's failure to appear, the courtroom proceedings were disrupted and the case had to be continued.
46. Judge Williams issued a rule to show cause against Respondent hearing for the April 14, 2017 failure to appear. At the show cause hearing, Respondent correctly stated that her license to practice law was under interim suspension on April 14, 2017. Judge Williams dismissed the show cause, but noted that Respondent had appeared in another matter on April

14, 2017 before Judge William W. Eldridge, IV.

Various failures to appear and tardiness

47. Judge Williams and Judge Burton told the bar's investigator that they have observed on many occasions that Respondent has failed to appear or has been late to court. Respondent's conduct is a disruption to the courts that injures not only Respondent's clients, but also burdens the judges, the court staff, and other parties and lawyers with matters before the courts.

FACTUAL ALLEGATIONS PERTAINING TO VSB NO. 17-070-109327
(Complainants Barbara and William Wood)

48. On or about June 2, 2016, Barbara and William Wood met with and retained Respondent to represent them in obtaining a legal guardianship over their disabled son. The Woods sought to obtain legal guardianship over their son before he turned 18 years old in early December 2016.
49. Respondent agreed to accept the representation for a flat fee of \$1500.00.
50. By check dated June 2, 2016, the Woods paid Respondent \$1500.00 for the representation. Respondent did not hold this money in trust, but rather deposited the funds into a personal account.
51. After this initial meeting in June 2016, the Woods never again saw Respondent.
52. During the course of the representation, Ms. Wood called Respondent several times regarding the status of the guardianship.
53. During the course of the representation, Respondent failed to provide the Woods with reasonable communication or comply with reasonable requests for information regarding the status of the case.
54. Respondent failed to act with reasonable diligence in pursuing the guardianship for the Woods. Respondent failed to file the petition for guardianship for two months after she was hired. Respondent did not diligently pursue appointment of a guardian *ad litem* "(GAL)", and a GAL was not appointed until November 2, 2016. Respondent never provided the GAL with a notice of hearing that included a date and time of the hearing. Respondent never obtained a hearing date for the Woods to be appointed guardians of their son.
55. The Woods' son turned 18 years old in December 2016 without a legal guardian in place. As a result of Respondent's delay in obtaining the guardianship, the Woods' efforts to obtain

Social Security disability benefits for their son were unnecessarily complicated.

56. The petition for guardianship and notice of hearing Respondent filed were deficient in that Respondent cited statutes that were repealed in 2012 and failed to provide a date and time for a hearing.
57. From December 6 to December 12, 2016, Respondent's license to practice law was suspended for failure to comply with a bar subpoena. The December 6, 2016 Disciplinary Board Order imposing the suspension required Respondent to notify all clients of her suspension. Despite the Disciplinary Board's Order, Respondent did not notify the Woods of the suspension of her law license.
58. In or about mid-January 2017, Ms. Wood learned that Respondent's law license had been under suspension.
59. On or about January 30, 2017, the Woods hired another lawyer, Kimberly Emerson, Esq., to obtain the guardianship. The Woods paid Ms. Emerson \$750.
60. On or about February 3, 2017, Ms. Emerson sent Respondent an email requesting that she provide the original documents given to her by the Woods, which included a report of medical evaluation and a sworn statement from his doctor.
61. Ms. Emerson filed an amended petition, ensured the Woods' son received proper notice under law, and on February 22, 2017 a hearing was held in which the Woods were appointed legal guardians of their now adult son.
62. By letter dated March 28, 2017, the Woods demanded that Respondent return all original documents to them and provide a partial refund of the \$1500 paid, since Respondent did not complete the representation. Respondent did not return the original documents or refund any money to the Woods. Instead, Respondent sent the Woods an invoice indicating that Respondent's fees and expenses in the case totaled \$1703.94, but that she was writing off the amounts due over \$1500.00.
63. By failing to do the legal work required to obtain a guardianship for the Woods before their son turned 18 years old, by citing a repealed statute in the petition, and by failing to provide a date and time in the filed notice of hearing, Respondent violated RPC 1.3(a).
64. By failing to keep her clients reasonably informed of the status of their case, by failing to respond to reasonable requests for information, and by failing to notify the Woods of the suspension of her law license, Respondent violated RPC 1.4(a).
65. By knowingly failing to notify her clients of the suspension of her law license as ordered by the Disciplinary Board on December 6, 2016, Respondent violated RPC 3.4(d).

66. By failing to deposit and hold in trust until earned the \$1500 the Woods paid to her upon hiring, Respondent violated RPC 1.15(a)(1) and 1.15 (b)(5).

67. By failing to provide the Woods any refund, full or partial, Respondent violated RPC 1.16(d).

E. Shelly Renee Collette acknowledges that the material facts stated herein are true; and

F. Shelly Renee Collette submits this Affidavit and consents to the revocation of her license to practice law in the Commonwealth of Virginia because she knows that the Virginia State Bar could sustain its burden of proof by clear and convincing evidence as to the charges herein.

G. Shelly Renee Collette makes this affidavit seeking that the one year suspension imposed by the Disciplinary Board following the February 16, 2018 Show Cause proceeding be subsumed within the revocation of her license to practice law.

Executed and dated on MARCH 22, 2018

[Signature]
Shelly Renee Collette
Respondent

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF WINCHESTER, to wit:

The foregoing Affidavit Declaring Consent to Revocation was subscribed and sworn to before me by Shelly Renee Collette on 3/22/18

[Signature]
Victoria Buckley
Notary Public

My Commission expires: 2/29/20

