

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTERS OF
MARC ERICSON DARNELL**

**VS B DOCKET NOS.: 18-010-109107
18-010-110173
18-010-110371
18-010-112242**

**AGREED DISPOSITION MEMORANDUM ORDER
THREE-YEAR SUSPENSION**

This matter came before the the Virginia State Bar Disciplinary Board on Wednesday, September 18, 2019 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 Part Six, § IV, ¶ 13-6 (H) of the *Rules of the Supreme Court of Virginia*. The panel consisted of Sandra L. Havrilak, Chair, Nancy L. Bloom, Lay Member, Donita M. King, John A. C. Keith and Michael J. Sobey. The Virginia State Bar was represented by Christine Corey, Assistant Bar Counsel. Marc Ericson Darnell (hereinafter “Respondent”) was present and was not represented by counsel. 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 Teresa L. McLean, 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.

It appearing to the Board after due deliberation and consideration of the Certification, Respondent’s Answer, Respondent’s Disciplinary Record, the arguments of the parties, the submitted Agreed Disposition; and, the papers previously filed herein that the Agreed Disposition should be accepted.

It further appearing to the Board that Respondent’s request to delay the imposition of the sanction to November 1, 2019 should be denied.

Upon consideration whereof, it is therefore Ordered that a majority of the Disciplinary Board accepts the Agreed Disposition and the Respondent shall receive a Three-Year Suspension, as set forth in the Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is further Ordered that the sanction is effective September 18, 2019.

It is further Ordered as follows:

The Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the *Rules of the Supreme Court of Virginia*. The Respondent shall forthwith give notice by certified mail of the Revocation or Suspension of his or her license to practice law in the Commonwealth of Virginia, to all clients for whom he or 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 his care in conformity with the wishes of his clients. The Respondent shall give such notice within 14 days of the effective date of the Revocation or Suspension, and make such arrangements as are required herein within 45 days of the effective date of the Revocation or Suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the Revocation or Suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further Ordered that if the Respondent is not handling any client matters on the effective date of the Revocation or Suspension, he shall submit an affidavit to that effect within 60 days of the effective date of the Revocation or Suspension to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

The Clerk of the Disciplinary System shall assess costs pursuant to Part Six, § IV, ¶ 13-9 (E) of the *Rules*.

It is further Ordered that an attested copy of this Order be mailed to the Respondent by certified mail, return receipt requested, at his last address of record with the Virginia State Bar at Marc Ericson Darnell, Esquire, P.O. Box 1673, Newport News, VA 23601, and a copy to his alternate address of record at Marc Ericson Darnell, Esquire, 106 Edith Wharton Square, Newport News, VA 23606, and a copy hand-delivered to Christine Corey, Assistant Bar Counsel, Virginia State Bar, Suite 700, 1111 E. Main Street, Richmond, VA 23219.

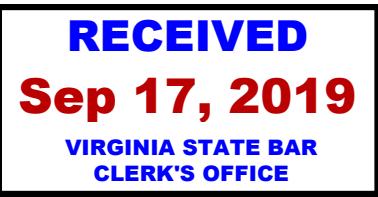
Entered: September 18, 2019.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Sandra L. Havrilak

Digitally signed by Sandra L. Havrilak
DN: cn=Sandra L. Havrilak, o, ou,
email=slhavrilak@havrilaklaw.com, c=US
Date: 2019.09.18 18:33:52 -04'00'

Sandra L. Havrilak, Chair



VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
MARC ERICSON DARNELL

VSB Docket Nos. 18-010-109107; 18-010-
110173; 18-010-110371; 18-010-112242

AGREED DISPOSITION
(THREE-YEAR SUSPENSION)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H., the Virginia State Bar, by Christine Corey, Assistant Bar Counsel and Marc Ericson Darnell, Respondent, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. At all relevant times, Respondent was licensed to practice law in the Commonwealth of Virginia.
2. Beginning March 14, 2018, Respondent was administratively suspended for failure to comply with his 2017 CLE requirements. His license was reinstated on May 3, 2018.

Facts Relating to VSB Docket No. 18-010-109107 (Complainant Debra Babb)

3. In case 18-010-109107, Debra Babb (Babb) filed a bar complaint against Respondent.
 - a. Babb hired Respondent in February 2016 to file a lawsuit against Honda because of problems she had with her vehicle. Babb consulted with Respondent and hired him over the telephone. She subsequently signed a contract with Respondent and sent it back to him via email.
 - b. Babb filed her first complaint with the Virginia State Bar (VSB) Intake department on April 18, 2017, stating that Respondent had no contact with her regarding her case since September 22, 2016, a period of almost seven months.
 - c. Babb stated that during their last communication on September 22, 2016, Respondent told Babb that he was close to settling the case and he was going to speak with opposing counsel.
 - d. From September 22, 2016, until she filed the complaint on April 18, 2017, Babb stated that she emailed Respondent, called him, and left messages for him, but

received no response. Babb stated that she also sent a certified letter to Respondent's office in January 2017, which he never picked up. The last time she called his office number, the phone was disconnected.

- e. Babb sent a second certified letter to Respondent's home address in April 2017, which was accepted by Respondent's wife. However, Respondent never called Babb or otherwise acknowledged receipt of the letter.
- f. Babb's complaint stated that he did not provide documentation regarding her case, even though she asked for written documentation. She stated that she had no way of knowing what the attorney's fees totaled, but that in August 2016, Respondent told her they were about \$1,500.00.
- g. In response to Babb's complaint, the Intake department asked Respondent to communicate with Babb regarding the status of her case. In response to Intake's request, Respondent sent a letter to Babb dated May 1, 2017, stating that he had spoken with opposing counsel and they were considering the settlement demand. Respondent stated in the letter to Babb that if negotiations reached an impasse, he was prepared to complete discovery, obtain a trial date, and try the matter.
- h. Based on Respondent's letter to Babb, the Intake department closed the file.
- i. Babb filed another complaint on June 20, 2018. In her second complaint, Babb stated that the letter Respondent sent to her dated May 1, 2017, and copied to the VSB Intake department, was the last she had heard from Respondent.
- j. Babb stated in her second complaint that on June 19, 2018, she received a copy of correspondence sent to the court by the opposing party stating that they had been unable to reach Respondent, they had received letters returned to them that they sent to Respondent, he was not responding to their phone messages, and he was not forwarding their settlement proposals to Babb to approve or decline.
- k. Babb stated in her second complaint that she was summoned to court for discovery sanctions, she was completely unaware of what was happening in the case, and the other side was asking the court to require her to pay their costs. Babb later learned that the opposing counsel had sent interrogatories to Respondent, but Respondent had not provided them to Babb.
- l. Babb told VSB Investigator Pucky (Pucky) that the court held a hearing on July 23, 2018, and that during the hearing, the Judge told Respondent to take a few minutes to get his thoughts together and provide an explanation for his failure to appropriately represent Babb. Babb recalled that when Respondent came back into the courtroom, his statement was brief and he said he was sorry.
- m. Babb told Pucky that the first time she ever saw Respondent was at the hearing on July 23, 2018, and that Respondent did not acknowledge her in court that day.

- n. Babb hired new counsel, attorney Leonard Bennett, in July 2018. Mr. Bennett told Pucky that it took some effort to get Babb's file from Respondent, but he eventually provided it.
- o. Mr. Bennett told Pucky Respondent was ordered to pay approximately \$3,000.00 in costs at the July 2018 hearing.
- p. Pucky interviewed Respondent on January 23, 2019. Respondent told Pucky that he had an agreement with the attorney who had originally been representing Honda that there would be no discovery until the vehicle was inspected and settlement negotiations were initiated. Respondent said he never received the discovery from the attorney who took over the case.
- q. Pucky asked Respondent if he told his client the truth in September 2016, when he advised her that he was close to settling the case. In response, Respondent told Pucky that the former counsel for Honda made a settlement offer and he recalled discussing it with Babb.
- r. Pucky asked Respondent why he did not notify his clients when he closed his office. Respondent acknowledged that he never formally notified his clients about the office closure, but he said his email address and cell phone number never changed.
- s. When Pucky asked Respondent why he did not initiate contact with Babb or the new opposing counsel by email, cell phone or text message, Respondent failed to provide a direct response, but said he would check his electronic records for evidence of communication.
- t. Respondent told Pucky that his health issues, which required primarily bedrest, contributed to his failure to communicate.
- u. Pucky asked Respondent why he did not provide Babb with a copy of her file, which she had requested several times, but was not provided until her new attorney took over the case. Respondent told Pucky that there wasn't much to give to her and that she already had a copy of the complaint and all her repair orders. Respondent said that any other discussions he had with Honda were done verbally or by email.
- v. Pucky asked Respondent about what occurred at the July 2018 hearing and Respondent told Pucky that the Judge ordered him to pay defense costs and allowed Babb additional time to answer the discovery. He said the Judge wanted him to apologize, which he did, but he felt "there was no harm to Babb, she was not negatively affected."

Facts Relating to VSB Docket No. 18-010-110173 (Complainant Kiara Gentry)

4. In case 18-010-110173, Kiara Gentry (Gentry) filed a bar complaint against Respondent on August 15, 2017.
 - a. Gentry retained Respondent in August or September of 2016 after her initial attorney, Alex West (West), had to withdraw from the case because of a conflict of interest. The case involved personal injury and premises liability based on Gentry's fall at Busch Gardens, which resulted in a broken ankle. West had previously worked at Busch Gardens as an accident investigator.
 - b. Gentry stated in her complaint that West had gathered the majority of the information for the case and Respondent later confirmed with Pucky that everything was ready for trial, except the expert report, which Respondent could not locate.
 - c. West had previously filed a Warrant in Debt in the General District Court for the County of York/City of Poquoson. Respondent decided to nonsuit the case because the trial date was approaching and he could not locate the expert report.
 - d. Respondent stated in his response to the Complaint that he informed Gentry that he appeared and took a nonsuit of her case. Respondent stated that after the nonsuit, he reached out to West's firm to locate a copy of the expert's report, but Respondent never located the expert's report.
 - e. Gentry stated in her complaint that whenever she reached out to Respondent, it took him several days and sometimes weeks to respond. After several months of this, Gentry asked Respondent to provide her file to her so that she could find another attorney.
 - f. Gentry and Respondent arranged to meet on August 11, 2017, so Gentry could get her file. When they met, Respondent told Gentry the statute of limitations would run on September 26, 2017.
 - g. Gentry stated in her complaint filed on August 15, 2017, that she called around to several law firms and they all refused to take her case because of the short notice. However, Gentry stated that prior to declining to take the case, one of the lawyers she spoke with, Lance Garner, Esquire, did contact the expert witness and had no problem obtaining the information he needed.
 - h. Gentry also stated in correspondence to the VSB that she had never been informed about the nonsuit. She reiterated that she often called and texted Respondent for days to get answers. She stated that alleged court dates changed and there was no correspondence regarding why they were changing.

- i. Gentry stated that Respondent always had excuses when she wanted to discuss her case or she had questions. Respondent would tell her he was sick, his kids were sick, or they had some type of sporting event.
- j. Gentry stated in her correspondence to the VSB that when she received her file, she realized that everything in the file was West's work and nothing had been prepared by Respondent.
- k. Pucky spoke with West and West did not realize that Respondent had nonsuited the case. West told Pucky that even if there was an issue finding the expert report, the Respondent could have contacted the expert himself or hired a new expert.
- l. Pucky spoke with Lance Garner, Esquire, who told Pucky he declined to represent Gentry because it was very close to the filing deadline, her injuries were relatively minor, and the expert report was insufficient. Pucky asked Mr. Garner how he obtained the expert report and he stated that he called the expert witness, Kenneth Martin, and discussed it over the telephone.
- m. Pucky spoke with Kenneth Martin, the expert witness, who told Pucky there was not a written report because it would be discoverable and he does not prepare one unless specifically requested. Mr. Martin told Pucky that he spoke with West two to three times about Gentry's case and Lance Garner at least once. Respondent's name was not familiar to Mr. Martin and he did not recall speaking with him.
- n. Pucky interviewed Respondent on March 28, 2018, and Respondent told him that West did not provide the name of the expert witness to Respondent. He also told Pucky that Gentry identified the expert witness, but never told Respondent who it was.
- o. Pucky asked Respondent what he did on the case between August 2016 and August 2017. Respondent told Pucky that he reviewed the file and since there was no expert witness report, he attempted to obtain one. Respondent said he spoke several times with opposing counsel and he said he had a warrant in debt ready to go, but did not file it because he could not identify the expert witness.
- p. Pucky asked Respondent for any evidence of his claimed work on the case, such as notes from phone calls. Respondent told Pucky several times that he intended to provide documentation to substantiate his efforts in the case, but he failed to do so after several requests by Pucky. Pucky reviewed the client file and there was no warrant in debt or other evidence of work performed by Respondent.
- q. Pucky asked Respondent if he was experiencing any personal problems that were preventing him from managing his cases and Respondent indicated that he was fine and did not require any type of assistance from the VSB.

Facts Relating to VSB Docket No. 18-010-110371 (Complainant Christina Brinker)

5. In case 18-010-110371, Christina Brinker (Brinker) filed a bar complaint against Respondent on September 6, 2017.
 - a. Brinker and her husband (the Brinkers) hired Respondent in October 2015, after buying a newly remodeled home in July 2015 and discovering that the home had no permits, and no inspections had been completed before, during, or after the work on the home.
 - b. The Brinkers paid Respondent a total of \$4,000.00 in two separate payments. The first payment of \$1,000.00 in October 2015 was to attempt to resolve the case without the need for litigation. When Respondent told them it was going to be a contested matter, the Brinkers paid Respondent another \$3,000.00 in February 2016. The payments were made by credit card and Respondent told Pucky he deposited the money in his operating account at BB&T.
 - c. In an interview on April 11, 2018, Brinker told Pucky that Respondent told them that initially, he was going to try to work things out without litigation by contacting and negotiating with opposing counsel, Jon Babineau.
 - d. Brinker stated in her complaint that as of August 12, 2016, Respondent was supposed to file a lawsuit. Respondent told Brinker that the courts were so backed up that they would not be able to get a court date until December 2016 or January 2017.
 - e. Nothing was scheduled for December 2016 or January 2017. Brinker stated in her complaint that she repeatedly sent text messages to Respondent and she called his phone and left messages for him to call them back and tell them what was going on. The Brinkers did not hear anything until March 2017, when Respondent told them that the court gave them a date of April 19, 2017 to schedule a trial date.
 - f. The Brinkers told Respondent they wanted to be at the April 19, 2017 hearing to set a trial date and Respondent told them they did not need to be there and that he would likely set the date with opposing counsel outside of court. Thereafter, Respondent told the Brinkers that the court date would be the first week or two of August 2017. Brinker stated in her complaint that nothing happened in August.
 - g. Brinker stated in her complaint that they repeatedly asked Respondent what was going on with their case and he gave them nothing but excuses, including, sick family, friend died unexpectedly, handling a case where the driver may not be going home with his family that night, can't get in touch with opposing counsel, etc.
 - h. Brinker stated in her complaint that they were told twice that they had a court date and that papers were filed and there was nothing done. Brinker stated that she

asked for copies of paperwork that Respondent sent to the opposing party, but she never received anything.

- i. Respondent sent a response to the bar complaint on October 12, 2017. In his response, Respondent stated that 1) he had numerous teleconferences with the managing member of the rehab company and was assured multiple times that the problems would be resolved to the Brinkers' satisfaction, but attempts to remedy the issues were unsatisfactory; 2) he informed the Brinkers about litigating the matter and told them they needed to hire a licensed professional engineer/contractor/inspector to identify items to be repaired and the cost of the repairs; 3) the cost of the repairs appeared to surpass \$25,000, so the circuit court was the more appropriate venue; and 4) recent attempts to communicate with the rehab company's managing partner were unsuccessful, largely because of their competing schedules.
- j. Upon reviewing the response from Respondent, the Brinkers filed a rebuttal stating that 1) they hired a home inspector and emailed the report to Respondent between May 1 and May 5, 2016; 2) on August 12, 2016, Respondent sent a message to them stating that he believed they should file in general district court because the estimate was \$15,000; and 3) the Brinkers asked if they could raise the amount sued for to \$25,000 to include attorney's fees, and Respondent said "Yes; will do".
- k. When they filed their rebuttal with the VSB, the Brinkers provided text message exchanges with Respondent spanning from late October 2016 through mid-October 2017. The text messages demonstrate that Respondent failed to communicate with the Brinkers about their case and failed to provide competent and diligent representation. Further, the text messages demonstrate that Respondent was not honest with his clients regarding their case.
- l. The Brinkers told Pucky during their interview on April 11, 2018, that Respondent had not filed anything in any court on their behalf.
- m. Brinker told Pucky that she requested a refund from Respondent via a text message she sent to him on March 26, 2018, but he never responded to her request.
- n. Pucky asked Brinker if Respondent ever explained why he did not file a lawsuit in August 2016 as promised and why he never obtained court dates in December 2016, January 2017, March 2017, April 2017, and August 2017 as promised. Brinker stated that Respondent never provided an explanation and did not respond to their requests for information.
- o. Pucky interviewed Respondent on May 8, 2018. Pucky asked Respondent why he did not respond to the numerous text messages from Brinker requesting an update

on the case and Respondent said he was taking care of his elderly father who was having serious health problems.

- p. When Pucky asked Respondent why there was no hearing scheduled at the April 19, 2017 court date to schedule a trial date, Respondent said it was likely that the expert report containing the calculation of damages was not ready, but Respondent could not recall the specific date the expert report was completed.
- q. Pucky advised Respondent that the Brinkers provided Respondent with a home inspection report in May 2016, and an engineer's estimate in August 2016. Pucky asked Respondent why nothing happened after he had those reports. Respondent could not explain why nothing was done on the case after he had those reports.
- r. A review of the on-line court information system indicated that Respondent filed a contract action on behalf of the Brinkers in November 2018. On March 20, 2019, Pucky reviewed the file in the City of Norfolk Circuit Court clerk's office and discovered that the Complaint filed by Respondent on November 13, 2018 is the only thing in the file. Pucky asked the Brinkers what was happening in the case. Brinker told Pucky that Respondent began communicating with them and told them that the next step would be to get the Complaint served on the defendants. Respondent also told them there is a court date set in October 2019. According to the court information system, the matter is set for a term date on October 15, 2019.

Facts Relating to VSB Docket No. 18-010-112242 (Complainant Greg Burks)

- 6. In case 18-010-112242, Greg Burks (Burks) filed a bar complaint against Respondent.
 - a. Burks hired Respondent on June 9, 2017, to deal with the issue of an internet blog that contained derogatory posts about Burks. Burks stressed to Respondent that he needed immediate action to disable the blog. Burks retained Respondent over the telephone and paid him \$1,500.00 by credit card. There was no retainer agreement.
 - b. Burks filed a bar complaint on April 4, 2018, stating that Respondent was evasive, nonresponsive, and had not produced a single document or product in nine months.
 - c. During an interview with Pucky on November 20, 2018, Burks stated that when he hired Respondent, Respondent told him that he was going to conduct research, prepare and send a letter to Burks' ex-girlfriend and two others who set up the blog, and send a letter to Facebook because a fake Facebook account was created with his information. The fake Facebook account contained a link redirecting the user to the blog.

- d. Burks stated that while nothing was being done, and the blog continued to be posted, Burks experienced the end of more than three relationships and he lost job opportunities because of the blog. Burks also told Pucky the blog caused him to be treated for three suicide ideations because of the emotional toll it was taking on him.
- e. Burks told Pucky that he had very little communication with Respondent and that when Respondent did actually respond to his emails, the responses contained nothing but excuses. Burks went to Respondent's office to locate him, but nobody was there and it appeared to be closed. Other tenants near Respondent's office told Burks that they had not seen Respondent for several months.
- f. Burks told Pucky that he had contact with Respondent in October 2018, and they spoke about what tasks had been completed. Burks told Pucky it had been 16 months and nothing had been done.
- g. Respondent sent Burks a letter that he intended to send to Burks' ex-girlfriend and Burks told Pucky that it was incomplete, inadequate, and of poor quality. Burks said the letter could have been prepared by anyone and it appeared no legal research had been conducted. Burks asked Respondent to revise the letter.
- h. Pucky asked Burks what communication he had with Respondent from June 2017 to October 2018. Burks told Pucky that there was very little communication. He said there were scattered text messages and an occasional telephone call. Burks said he called Respondent and left voicemail messages, but Respondent would not respond. He said months would go by with no communication.
- i. Pucky interviewed Respondent on January 3, 2019. Pucky asked Respondent to explain what he accomplished to justify his fee. Respondent said it took some time to identify and prove who posted the blog. Respondent told Pucky he determined it was Burks' ex-girlfriend, but he could not recall when the identification was made.
- j. Respondent told Pucky he researched the different legal remedies available and conducted a skip trace to locate Burks' ex-girlfriend. Respondent sent a cease and desist letter to Burks' ex-girlfriend on December 5, 2018. She confirmed receipt of the letter and disabled the blog. The fake Facebook account was also removed.
- k. On December 12, 2018, Respondent informed Burks that the blog had been disabled and the fake Facebook account had been removed and the representation was concluded.
- l. Pucky asked Respondent why it took 16 months and Respondent stated that he conducted extensive research. He further stated that he had health problems that were affecting his work.

- m. Respondent told Pucky he deposited Burks' retainer in his operating account at BB & T. Respondent told Pucky he did not maintain a client ledger or any type of activity log for Burks' case.

II. NATURE OF MISCONDUCT

Such conduct by the Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.1 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.

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.

RULE 1.15 Safekeeping Property

- (a) Depositing Funds.

- (1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

- (c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

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;

RULE 8.4 Misconduct

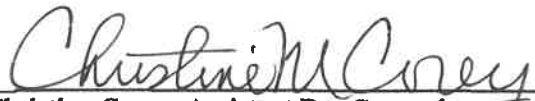
(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

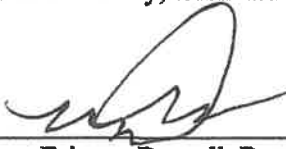
III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and the Respondent tender to the Disciplinary Board for its approval the agreed disposition of a **THREE-YEAR SUSPENSION** as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9.E of the Rules. If the Agreed Disposition is approved, it is not appealable.

AGREED:


Christine Corey, Assistant Bar Counsel


Marc Ericson Darnell, Respondent