

VIRGINIA:

Before the Virginia State Bar Disciplinary Board

In the Matter of

*Cheryl D. Footman-Banks
Attorney at Law*

VSB Docket Nos. 16-022-104335 and 16-022-104602

On March 9, 2017, came Cheryl D. Footman-Banks 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 and Certification, 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 Cheryl D. Footman-Banks be and the same hereby is revoked, and that the name of the said Cheryl D. Footman-Banks be stricken from the Roll of Attorneys of this Commonwealth.

Entered this 17th day of March, 2017

Virginia State Bar Disciplinary Board

William H. Atwill

By

William H. Atwill, Jr., Chair

Digitally signed by William H. Atwill
DN: cn=William H. Atwill, o=Virginia State Bar,
ou=Disciplinary Board,
email=batwill@atandlpc.com, c=US
Date: 2017.03.17 16:25:36 -04'00'

RECEIVED
MAR 9 2017
VIRGINIA STATE BAR

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
CHERYL D. FOOTMAN-BANKS

VSB Docket Nos. 16-022-104335
16-022-104602

AFFIDAVIT DECLARING CONSENT TO REVOCATION

Cheryl D. Footman-Banks, after being duly sworn, states as follows:

1. That she was licensed to practice law in the Commonwealth of Virginia on September 25, 1986;
2. That she submits this Affidavit Declaring Consent to Revocation pursuant to the Rules of Court, Part 6, Section IV, Paragraph 13-28;
3. That her consent to revocation is freely and voluntarily rendered, that she is not being subjected to coercion or duress, and that she is fully aware of the implications of consenting to the revocation of her license to practice law in the Commonwealth of Virginia;
4. That she is aware that there is currently pending a Proceeding involving allegations of Misconduct, the docket numbers for which are set forth above, and the specific nature of which is set out in the Certification issued in those matters on September 6, 2016, a copy of which is attached hereto as Exhibit 1;
5. She acknowledges that the material facts upon which the allegations of Misconduct are predicated as set out in the Certification are true; and
6. She submits this Affidavit and consents to the revocation of her license to practice law in the Commonwealth of Virginia because she knows that if the disciplinary Proceedings based on the said alleged Misconduct were prosecuted to a conclusion, she could not successfully defend

them.

Executed on March 3, 2017.

Cheryl D. Footman-Banks
Cheryl D. Footman-Banks
Respondent

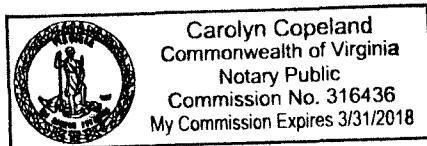
COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Chesapeake, to wit:

The foregoing Affidavit Declaring Consent to Revocation was subscribed and sworn to before me by Cheryl D. Footman-Banks on March 3, 2017.

Carolyn Copeland
Notary Public

My Commission expires: 3-31-18.



VIRGINIA:

BEFORE THE SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTERS OF
CHERYL D. FOOTMAN-BANKS

VSB Docket Nos. 16-022-104335
16-022-104602

SUBCOMMITTEE DETERMINATION
(CERTIFICATION)

On August 10, 2016, a meeting in this matter was held before a duly convened Second District Subcommittee consisting of Mr. Francis R. Nance, Lay Member, Scott Charles Vachris, Member, and Mona Schapiro Flax, Chair. Pursuant to Part 6, § IV, ¶ 13-15.B.3 of the Rules of the Supreme Court of Virginia, the Second District Section II Subcommittee of the Virginia State Bar hereby serves upon Cheryl D. Footman-Banks, (“Respondent”) the following Certification:

I. FINDINGS OF FACT

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

VSB Docket No. 16-022-104335

2. The Court of Appeals of Virginia (“CAV”) dismissed the following three criminal appeals due to procedural defaults on the part of Respondent who was court-appointed to represent each of the appellants on appeal:

Robert Wayne Compton, Jr. v. Commonwealth of Virginia (Record No. 2221-13-1)

By order entered in the Chesapeake Circuit Court on October 28, 2013, Mr. Compton was sentenced to serve an active period of incarceration of one year as the result of his drug possession convictions.

Respondent was appointed to represent Mr. Compton on appeal. She timely filed a notice of appeal. She did not file a petition for appeal by the March 5, 2014 deadline, and as a result, the appeal was dismissed by order entered on April 10, 2014.



Jarry Kaniel Ratliff v. Commonwealth of Virginia (Record No. 1896-13-1)

By order entered in the Norfolk Circuit Court on September 27, 2013, Mr. Ratliff was sentenced to serve an active period of incarceration of 15 months as the result of a probation violation.

Respondent was appointed to represent Mr. Ratliff on appeal. She timely filed a notice of appeal. She did not file a petition for appeal by the March 31, 2014 deadline, and as a result, the appeal was dismissed by order entered on May 2, 2014.

AND

Brandon Dominic Winder v. Commonwealth of Virginia (Record No. 1047-15-1)

By order entered in the Norfolk Circuit Court on May 1, 2015, Mr. Winder was sentenced to serve an active period of incarceration of one year as the result of his perjury convictions.

Respondent was appointed to represent Mr. Winder on appeal. She timely filed a notice of appeal. She did not file a petition for appeal by the August 17, 2015 deadline, and as a result, the appeal was dismissed by order entered on September 21, 2015.

3. Respondent did not notify Mr. Winder of the dismissal of his appeal. Upon being notified by the CAV in or about January 2016 of the dismissal of his appeal, Mr. Winder asked Respondent to provide him with his file and Respondent never did so.

4. The dismissal order in Mr. Winder's appeal was entered just two days prior to the issuance of an order by the Virginia State Bar Disciplinary Board (the "Board") suspending Respondent's law license for 45 days effective October 13, 2015, in VSB Docket No. 15-022-100028). The Board's order directed Respondent to comply with Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia, which requires that lawyers under a suspension or revocation notify clients, courts, and opposing counsel of the suspension or revocation and provide proof of compliance to the bar. Respondent failed to comply with that directive in that she did not notify Mr. Winder, the CAV or counsel for the Commonwealth of her license suspension and did not make arrangements for the disposition of Mr. Winder's appeal or move to withdraw as his counsel.

5. Respondent made no attempt to remedy any of the three defaults by seeking delayed appeals or otherwise pursuing further appellate review.

6. A copy of this complaint was mailed to Respondent at her address of record for membership purposes with the bar on November 6, 2015 via a letter demanding she file an answer within 21 days. Respondent never filed an answer. During the course of the investigation of this complaint, a bar investigator asked Respondent to submit to an interview and Respondent never made herself available to be interviewed.

7. The complainant, Keith Robertson, and his wife, hired Respondent in March 2015 to represent them in pursuing visitation rights to their grandchildren in the Virginia Beach Juvenile and Domestic Relations District Court. Respondent agreed to handle the matter for a flat fee of \$750.00 toward which the Robertsons paid Respondent \$700.00. Although Respondent initially pursued the matter and communicated with the Robertsons, she later ceased performing work and responding to the Robertsons' repeated inquiries.

8. Respondent's law license was suspended for 45 days effective October 13, 2015, (VS B Docket No. 15-022-100028). Respondent was ordered to comply with Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia, which requires that lawyers under a suspension or revocation notify clients, courts, and opposing counsel of the suspension or revocation and provide proof of compliance to the bar. Respondent failed to comply with that directive in that she did not notify the Robertsons, the Virginia Beach Juvenile and Domestic Relations District Court, opposing counsel or the guardian *ad litem* for the children of her license suspension and did not make arrangements for the handling of the Robertsons' matter or move to withdraw as their counsel.

9. The Robertsons did not learn Respondent's law license was suspended until just three days before the November 16, 2015 hearing scheduled in their visitation case, when the guardian *ad litem* for the children informed them of Respondent's license suspension.

10. After learning of Respondent's license suspension, the Robertsons requested a refund of the \$700.00 they had paid for the representation. Respondent never refunded any of the monies.

11. During the course of the investigation of this complaint:

- A. A copy of this complaint was mailed to Respondent at her address of record for membership purposes with the bar on December 17, 2015 via a letter demanding she file an answer within 21 days. Respondent never filed an answer;
- B. On February 17, 2016, a subpoena *duces tecum* was issued to Respondent and mailed to her address of record for membership purposes with the bar commanding a copy of the file and billing and trust account records for her representation of the Robertsons. Respondent never filed a response to the subpoena *duces tecum*. A Notice of Noncompliance and Request for Interim suspension was filed with the Clerk's Office pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-6.G.3. Respondent did not petition for a hearing, and, consequently, on April 12, 2016, an Interim Suspension Order was entered administratively suspending Respondent's law license¹.

¹ Following this suspension, Respondent again failed to provide proof of her compliance with the notice requirements of Rules of Court, Part Six, Section IV, Paragraph 13-29 as ordered in the Interim Suspension Order issued April 12, 2016.

AND

- C. A bar investigator asked Respondent to submit to an interview and Respondent never made herself available to be interviewed.

II. NATURE OF MISCONDUCT

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

VSB Docket No. 16-022-104335

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.
- (b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

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 1.16 Declining Or Terminating Representation

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
- (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).
- (e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this

paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of the representation.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

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:

(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;

VS B Docket No. 16-022-104602

RULE 1.3 Diligence

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

(b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

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 1.15 Safekeeping Property

(b) Specific Duties. A lawyer shall:

(4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer that such person is entitled to receive

RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law;

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

RULE 8.1 Bar Admission And Disciplinary Matters

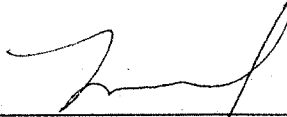
An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(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;

III. CERTIFICATION

Accordingly, it is the decision of the Subcommittee to certify the above matters to the Virginia State Bar Disciplinary Board.

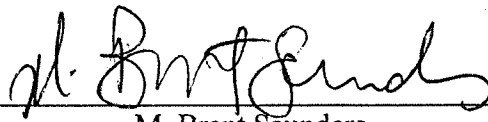
**SECOND DISTRICT SECTION II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

By 

Mona Schapiro Flax
Subcommittee Chair

CERTIFICATE OF SERVICE

I certify that on the 6th day of SEPTEMBER, 2016, I mailed by certified mail a true and correct copy of the foregoing Subcommittee Determination (Certification) to Cheryl D. Footman-Banks, Esquire, Respondent, at Attorney at Law, Janaf Office Building, 5900 E Va Beach Blvd Ste 208, Norfolk, VA 23502, Respondent's last address of record with the Virginia State Bar.



M. Brent Saunders
Senior Assistant Bar Counsel