

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
JAHANGIR GHOBADI

VSB Docket Nos 18-052-111817
18-052-112490

MEMORANDUM ORDER OF REVOCATION

I. INTRODUCTION

THIS MATTER CAME TO BE HEARD on June 28, 2019, on the District Committee Determination for Certification by the Fifth District Committee, before a panel of the Virginia State Bar Disciplinary Board (“the Board”) consisting of Michael A. Beverly (presiding) (“the Chair”), Sandra M. Rohrstaff, Martha J. Goodman, Lay Member, Yvonne S. Gibney and Thomas R. Scott, Jr. (“the Panel” or “the Board”). The Virginia State Bar (“the VSB”) was represented by Elizabeth K. Shoenfeld (“Bar Counsel”). The Respondent, Jahangir Ghobadi (“the Respondent”), was present and proceeded *pro se*. Tracy J. Stroh, court reporter, Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227, (804) 730-1222, after being duly sworn, reported the hearing.

At the outset of the hearing, the Chair inquired of the members of the Panel whether any of them had any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the Panel. All members of the Panel responded in the negative.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18 of the Rules of Court.

II. MISCONDUCT PHASE

The complaints of misconduct filed by Medhi Pahlevani (“Mr. Pahlevani”) (VSB Docket No. 18-052-111817) and Nikoo Faghieh (“Ms. Faghieh”) (VSB Docket No. 18-052-112490) were consolidated for hearing. Prior to the proceedings and at the final Prehearing Conference, VSB Exhibits 1-17, including both Exhibit 6 and 6A (there is no Exhibit 18), and 19-29 were admitted in evidence by the Chair, without objection from the Respondent. Respondent’s Exhibits 1 and 2 were also admitted without objection from the VSB. By agreement between the VSB and the Respondent, the Stipulations of Fact of Professional Misconduct (“the Stipulation”) was also received as an unmarked exhibit.

The Board first received the Stipulation, exhibits introduced in evidence, testimony and other evidence at the hearing in this matter and then retired to deliberate after the VSB and the Respondent rested their case. After doing so, the Board finds the following facts and violations of the Rules of Professional Conduct (“the Rules”) by clear and convincing evidence in both cases:

A. VSB Docket No 18-052-111817 (Mehdi Pahlevani, Complainant)

Factual Findings

1. The Respondent is an attorney licensed to practice law in the Commonwealth of Virginia at all times relevant to the misconduct described herein. He was employed in the private practice of law through the date of this proceeding, although he testified at the hearing that he had substantially reduced his practice to the point that he only had a few pending clients.
2. On December 7, 2017, Mr. Pahlevani met with the Respondent to seek his assistance in obtaining an Office of Foreign Assets Control (“OFAC”) license enabling Mr. Pahlevani to sell property in Iran and to transfer the sale proceeds to his bank in the United States (“U.S.”). Prior to the meeting, the Respondent had assured Mr. Pahlevani that he had experience with obtaining OFAC licenses.
3. During the December 7th meeting, Mr. Pahlevani told the Respondent that he and his wife had purchased the property **after** he became a U.S. citizen and that they had not inherited the property. (Emphasis supplied.) Mr. Pahlevani explained that his wife was already in Iran to handle the first sale transaction and that he was anxious to sell the property and bring the proceeds to the U.S. because of growing hostilities in Iran and because the value of Iranian currency (toman) was dropping precipitously compared to the U.S. Dollar.

4. Mr. Pahlevani and the Respondent signed a Contract for Legal Services (“the Contract”). The representation was defined as “obtaining OFAC permission to transfer funds from Iran.”
5. Mr. Pahlevani wrote the Respondent a check for \$1,000, which the latter deposited in his firm’s operating account, rather than the firm’s trust account, that same day. Both Mr. Pahlevani and the Respondent characterized this payment as a flat fee. The Respondent told the VSB’s investigator that he regularly deposits flat fee payments in the operating account rather than the IOLTA trust account, despite the fact that they had not yet been earned.
6. The Respondent told Mr. Pahlevani that he would file for the OFAC license¹ the following Monday, and that the process would take about a month. The Respondent obtained copies of Mr. Pahlevani’s driver’s license and passport that same day.
7. The Respondent told the VSB’s investigator that he did not know and never asked Mr. Pahlevani when he acquired the property. Contrary to 31 C.F.R. 560.543(a) of the Code of Federal Regulations, the Respondent claimed that when and how the property was acquired does not matter for the purpose of obtaining an OFAC license. At the hearing in this matter, the Respondent testified that Mr. Pahlevani did not need a license at all. Respondent admitted, however, that he kept Mr. Pahlevani’s \$1,000 fee payment and explained that he (the Respondent) had provided Mr. Pahlevani with a “general license.”
8. Mr. Pahlevani followed up with the Respondent on December 17 and 26, 2017 and received no response.
9. On January 2, 2018, the Respondent sent an email to Mr. Pahlevani stating that “there is no licensing required for your case of bringing money from Iran.” The Respondent told the bar investigator that this was general information based on his communication with the “OFAC people.”
10. The next day, Mr. Pahlevani replied. He asked for an explanation of why he did not need a license because he had “spoken to several lawyers who have informed me that I will absolutely need to apply for a specific license because people who acquire real property after becoming a US person need to have a specific license...” He told the Respondent that in the four weeks since he had retained him, he has already lost thousands of dollars because of changes in the currency exchange rate. He said that if the Respondent was not willing or able to obtain a license for him, he wanted his money back.

¹ 31 CFR 560.543(a) of the Code of Federal Regulations provides, in pertinent part, that “[i]ndividuals who are U.S. persons are authorized to engage in transactions necessary and ordinarily incident to the sale of real and personal property in Iran to transfer the proceeds to the United States, provided that such real and personal property was acquired **before** the individual became a U.S. person or inherited from persons in Iran.” (Emphasis supplied.) In the OFAC’s January 31, 2018 letter to the Respondent concerning Mr. Pahlevani the OFAC explained: “to the extent that [Mr. Pahlevani’s] transactions related to the proposed property sale in Iran fall within the scope of [31 CFR 560.543] ... the property sale transactions and the transfer of the related funds from Iran to the United States may proceed without further authorization from OFAC.” Stipulation ¶17. Here, Mr. Pahlevani “**acquired**” the property “**after**” he became a U. S. citizen, and he did not inherit the property. Therefore, further authorization from OFAC, i.e., a specific license, was necessary.

11. Mr. Pahlevani followed up again on January 4, 2018.
12. On January 5, 2018, the Respondent submitted an application for the OFAC license. His application stated:

Mr. Mehdi Pahlevani is a US citizen who migrated to the United States many years ago. He still owns certain assets and property in Iran, and is interested to liquidate the property and transfer the resulting cash to his Bank accounts in the United States of America.
13. Other than providing a copy of Mr. Pahlevani's passport and driver's license, the Respondent provided no further information to OFAC. In particular, the Respondent did not state when the Pahlevanis had acquired the property in Iran and whether they had inherited it.
14. On January 23, 2018, the Respondent emailed Mr. Pahlevani a document he described as "the latest OFAC instruction, concerning the similar case."
15. Mr. Pahlevani wrote back the same day. In this communication, he said the information that the Respondent sent "applies to people who have acquired the property **before** they became a US person, or if they **inherited** the property. In my case, I acquired the property **after** I became a US citizen, and I **did not** inherit the property[.]" (Emphasis supplied.)
16. On January 30, 2018, the Respondent sent Mr. Pahlevani "a copy of the letter of January 5, 2018 requesting OFAC License in your name." The Respondent said that he had not yet received a response.
17. Mr. Pahlevani responded that same day. He summarized his communications with the Respondent thus far and said that he was "very confused and frustrated" about how the matter had been handled. He concluded his email with a number of questions, including "have you applied for this or you applied today?"; "when do I get the license?" and "why did you charge me \$1000 if I did not need license?"
18. On January 31, 2018, the licensing division of OFAC wrote a letter to Mr. Pahlevani in care of the Respondent. The letter stated that the regulation "generally authorized individuals who are U.S. persons to engage in transactions necessary and ordinarily incident to the sale of real property in Iran and to transfer the proceeds to the United States provided that such real property was either acquired **before** the individual became a U.S. person, or inherited from persons in Iran." (Emphasis supplied.) The letter further stated that "the property sale transactions and the transfer of the related funds from Iran to the United States may proceed without further authorization from OFAC," but only "[to] the extent that the transactions related to the proposed property sale in Iran fall within the scope of the general license."
19. On February 6, 2018, the Respondent emailed this letter to Mr. Pahlevani, stating "[a]ttached please find the OFAC license issued for you on January 31, 2018."
20. Mr. Pahlevani responded to the Respondent's transmittal of the proposed license the same day. He said that the OFAC letter the Respondent had sent was not a license. He also

demanded a refund of the fees he had paid to the Respondent. When the Respondent did not respond, Mr. Pahlevani filed his bar complaint.

21. Mr. Pahlevani wrote again to demand a refund of his fee on March 6, 2018. The Respondent replied to this email, stating that he had received Mr. Pahlevani's bar complaint and "[p]lease do not communicate with me directly."
22. In his March 20, 2018 response to Mr. Pahlevani's bar complaint, the Respondent said that "the OFAC License was emailed to his [Mr. Pahlevani's] attention on February 6, 2018."
23. During his interview with the VSB's investigator, the Respondent acknowledged, however, that the letter he received from OFAC was not a license. When asked to explain why he had told his client and the bar that he obtained a license, the Respondent said, "The license is here because it says that there is no need for a license...."²
24. The Respondent did not record any of his time devoted to Mr. Pahlevani's representation, and he did not provide Mr. Pahlevani with any billing statements.
25. The Respondent has not refunded any of the fee that Mr. Pahlevani paid him.
26. In his hearing testimony, the Respondent contradicted many of the facts to which he stipulated in the prehearing Stipulation and the Board found his explanations often not to be credible.

1. Violations of the Rules of Professional Conduct.

The Rules violated here are Rules 1.1, 1.3(a), 1.15(a)(1), 1.15(b)(4) and 1.16(d).

- a. Rule 1.1 requires a lawyer to provide competent representation to the client, which requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. By failing to understand and appropriately advise his client regarding OFAC regulations and requirements, including calling the January 31, 2018 OFAC communication a "license," the Respondent violated Rule 1.1.³

- b. Rule 1.3(a) requires a lawyer to act with reasonable diligence and promptness in representing his client. By failing to act promptly to secure a specific OFAC license or authorization for Mr. Pahlevani to sell the property and bring the proceeds to the U.S., despite

² In other words, Respondent's position was that a letter which says a license is not needed somehow is a "license." Of course, the Respondent's circular reasoning is in error too because the letter told him that a license is unnecessary, as relevant here, if the individual acquired the property **before** he became a U.S. person. (Emphasis supplied.)

³ See n. 2, *ante*.

Mr. Pahlevani's repeated reminders of the urgency of the matter, the Respondent violated Rule 1.3(a).

c. Rule 1.15 pertains to the safekeeping of client property and the handling of client funds, including maintaining proper books and records. Rule 1.15(a)(1) requires a lawyer or law firm to deposit funds held on behalf of a client in a trust account. By depositing Mr. Pahlevani's advance legal fee in the firm's operating account and not the trust account, the Respondent violated Rule 1.15(a)(1).

d. Rule 1.15(b)(4) requires a lawyer to promptly pay and deliver to the client such funds, securities or other properties in the possession of the lawyer that the client is entitled to receive. Similarly, Rule 1.16(d) requires a lawyer to take the necessary steps upon termination of the representation to refund any advance fee payment that has not been earned. By refusing to give Mr. Pahlevani any of his money back after failing to complete the task he agreed to perform, the Respondent violated Rules 1.15(b)(4) and 1.16(d).

B. VSB Docket No. 18-052-112490 (Nikoo Faghih, Complainant).

Factual Findings

1. The Respondent is an attorney licensed to practice law in the Commonwealth of Virginia at all times relevant to the misconduct described herein. He was employed in the private practice of law through the date of this proceeding, although he testified at the hearing that he had substantially reduced his practice to the point that he only had a few pending clients.
2. In December 2016, Ms. Faghih retained the Respondent to represent her in her divorce. Ms. Faghih told the Respondent that she was seeking an amicable divorce and **did not want any money or property from her husband.** (Emphasis supplied.)
3. On December 15, 2016, Ms. Faghih paid a \$2,000 flat fee by check and sent the Respondent certain documents he had requested, including her marriage certificate. The Respondent did not deposit this advance legal fee in his trust account.
4. Soon after the Respondent received Ms. Faghih's documents, he called and told her that he would need an additional \$2,000 advance legal fee. On January 1, 2017, Ms. Faghih paid the second \$2,000. The Respondent did not deposit this advance legal fee in his firm's IOLTA trust account either.
5. On February 24, 2017, the Respondent filed a Complaint for Divorce on behalf of Ms. Faghih in the Fairfax County Circuit Court. The complaint identified the separation date

as July 14, 2016, but nevertheless averred that Ms. Faghih should be granted a divorce on the grounds of separation of more than one year. Consequently, the complaint was filed prematurely at a time when the one-year separation ground for divorce had not yet materialized. See Va. Code § 20-91(9)(a). The complaint also sought recovery of 500 gold coins, child support and spousal support, despite the fact that Ms. Faghih previously told the Respondent that she did not want to pursue any of these in the divorce proceeding.

6. In October 2017, the Respondent prepared a Property Settlement Agreement. The Property Settlement Agreement did not address significant details regarding the disposition and maintenance of the properties that the couple owned.
7. In December 2017, the Respondent requested an *ore tenus* hearing. After unsuccessfully attempting to obtain an update on the status of her case from the Respondent, Ms. Faghih went to the courthouse and discovered that the *ore tenus* request had been rejected because the couple had not been separated for more than a year prior to the filing date.
8. The Respondent told the VSB investigator that he filed the *ore tenus* request because Ms. Faghih was pushing him to resolve the case as soon as possible.⁴
9. On December 20, 2017, Ms. Faghih sent an email to the Respondent terminating their attorney-client relationship. She said that she had retained new legal counsel, and she asked the Respondent to send her an invoice and refund the balance of her fee. Ms. Faghih also asked the Respondent to return her file.
10. The Respondent called Ms. Faghih in response to her email. He told her that she should not worry, and said that her case had been completed except for a 10-minute court appearance. Ms. Faghih was not persuaded and terminated the relationship anyway.
11. The Respondent did not send Ms. Faghih an invoice and he did not return any portion of her flat fee. He told Ms. Faghih that he thought he had earned the entire fee and that her request for a refund was unfair.
12. The Respondent did not provide Ms. Faghih with a copy of her file and, to date, has not done so.
13. In his hearing testimony, the Respondent contradicted many of the facts to which he stipulated in the prehearing Stipulation and the Board found his explanations often not to be credible.

1. Violations of the Rules of Professional Conduct

The Rules violated here are Rules 1.1, 1.3(a), 1.15(a)(D), 1.15(b)(4), 1.16(1) and 1.16(e).

- a. Rule 1.1 requires a lawyer to provide competent representation to the client,

which requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for

⁴ Ms. Faghih vehemently denies this claim. But, even assuming for the sake of argument that it is true, it does not justify the Respondent's action in filing the complaint prematurely. His remedy, if Ms. Faghih persisted, was to move to withdraw and to advise Ms. Faghih to retain other counsel.

the representation. Rule 1.3(a) requires a lawyer to act with reasonable diligence and promptness in representing his client. By filing the complaint of divorce on the grounds of separation for more than a year despite knowing and averring in the complaint that Ms. Faghih and her husband had been separated for less than a year, by failing to recognize and correct this error during the subsequent months in which he represented Ms. Faghih, by requesting relief in the divorce complaint that his client specifically advised him she did not wish to pursue, by failing to address important details regarding disposition of the properties in the Property Settlement Agreement, and by submitting a premature *ore tenus* request, the Respondent violated Rules 1.1 and 1.3(a).

b. Rule 1.15(a)(1) requires a lawyer or law firm to deposit funds held on behalf of a client in a trust account. By failing to deposit the advance legal fee in his firm's trust account, the Respondent violated Rule 1.15(a)(1).

c. Rule 1.15(b)(4) requires a lawyer to promptly pay and deliver to the client such funds, securities or other properties in the possession of the lawyer that the client is entitled to receive. Similarly, Rule 1.16(d) requires a lawyer to take the necessary steps upon termination of the representation to refund any advance fee payment that has not been earned. By failing to refund any amount of Ms. Faghih's fee despite not completing the work he agreed to perform, the Respondent violated Rules 1.15(b)(4) and 1.16(d).

d. Rule 1.16(e) requires that all original client-furnished documents must be returned to the client or her new counsel within a reasonable period of time upon termination of the representation. By failing to return Ms. Faghih's file, the Respondent violated Rule 1.16(e).

III. SANCTION PHASE

After the Board announced its findings by clear and convincing evidence that the Respondent had committed the Rule violations charged in the Certification as explained earlier herein, it received further evidence regarding aggravating and mitigating factors applicable to the

appropriate sanction for the conduct of the Respondent underlying the Rule violations. The VSB relied upon Exhibit 30 (Respondent's Disciplinary Record), which was admitted without objection, reflecting two prior disciplinary matters, and also noted that the Respondent had cooperated with the Bar in its investigations of these matters. The Bar thereafter rested its case.

The Board then heard evidence from the Respondent regarding mitigating factors applicable to the appropriate sanction. The Respondent testified in his own behalf that he held trusted positions of authority in the Iranian Embassy in Washington, D.C., that he was a close ally of the Shah of Iran, that he had essentially retired from practicing law, and that he cooperated with the VSB's investigation in this matter. Significantly, however, the Respondent testified in the Misconduct Phase that he did not have a disciplinary record when, in fact, the VSB's Exhibit 30 belies that claim. His disciplinary record discloses that he received a private admonition with terms in 2017 and a public reprimand in 2018. The Board did not take this misrepresentation lightly, compounded by the fact that the Respondent disavowed in his hearing testimony many of the facts to which he admitted in the Stipulation, in assessing the appropriate sanction in this proceeding.

IV. DISPOSITION

At the conclusion of the evidence in the Sanction Phase of this proceeding, the Board recessed to deliberate. After due deliberation and review of the foregoing findings of fact, upon review of Exhibits 1-30 presented by Bar Counsel on behalf of the VSB, Exhibits 1-2 presented by the Respondent, and the Stipulations of Fact, and upon review of the testimony of the Respondent and witnesses, the Board reconvened and stated its finding that, when considered together, the Respondent's pattern of violations in these matters, along with his prior disciplinary record, demonstrate a significant failure to uphold his duties to his clients and the profession. The Board's finding is further supported by the additional aggravating factors, among others, that (1) much of the Respondent's hearing testimony conflicted with his admissions in the Stipulations,

and (2) he misrepresented his disciplinary record in the Misconduct Phase of this proceeding. The Board further found unpersuasive the previous positions the Respondent held at the Iranian Embassy and his relationship with the Shah of Iran as warranting little, if any, consideration as appropriate mitigating factors in this proceeding.

Therefore, upon consideration of the evidence and the nature of the misconduct committed by the Respondent, it is **ORDERED**, by unanimous vote of the Board, that the Respondent's license to practice law in the Commonwealth of Virginia be, and it hereby is, **REVOKED** immediately this 28th day of June, 2019.

V. CONCLUSION

It is further ORDERED that the Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of this revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he 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. Respondent shall give such notice within 14 days of the effective date of June 28, 2018, and make such arrangements as are required herein within 45 days of the effective date of this revocation. The Respondent shall also furnish proof to the VSB within 60 days of the effective date of this revocation 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 June 28, 2019, he shall submit an affidavit to that effect to the Clerk within 60 days of the effective date of this revocation. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Board, which may impose

an additional sanction of Revocation or Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to Part Six, Section IV, Paragraph 13-9 E of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against the Respondent.

It is further ORDERED that the Clerk shall mail an attested copy of this Order to the Respondent, Jahangir Ghobadi, 46799 Sweet Birch Ter., Sterling, VA 20164-2263, by certified mail, return receipt requested; and by hand delivery to Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

This Order is final.

Enter this Order this 16th day of July, 2019

VIRGINIA STATE BAR DISCIPLINARY BOARD



Michael A. Beverly
First Vice Chair