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VIRGINIA:

BEFORE THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

**IN THE MATTER OF
NEIL KUCHINSKY**

**CASE NO. CL-16-3242
VSB DOCKET NO. 16-033-105536**

AGREED DISPOSITION MEMORANDUM ORDER

This matter came to be heard on February 23, 2017, before a Three-Judge Circuit Court, upon the joint request of the parties for the Court to accept the Agreed Disposition endorsed by the parties and offered to the Court as provided by the Rules of the Supreme Court of Virginia. The panel consisted of the Honorable Daniel R. Bouton, Judge of the Sixteenth Judicial Circuit, Designated Chief Judge, the Honorable Aundria Deloris Foster, Retired Judge of the Seventh Judicial Circuit, and the Honorable Stephen C. Mahan, Judge of the Second Judicial Circuit. Neil Kuchinsky was present and was represented by counsel, Rhett M. Daniel. The Virginia State Bar appeared through its Deputy Bar Counsel, Kathryn R. Montgomery. The Chief Judge polled the members of the court 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 judge responded in the negative. Court Reporter, Jennifer Hairfield, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

WHEREFORE, upon consideration of the Agreed Disposition, the Certification, Respondent's Answer and Demand for a Three-Judge Circuit Court, Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation,

It is **ORDERED** that the Circuit Court accepts the Agreed Disposition and the Respondent shall receive a five-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 May 1, 2017.

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 give notice by certified mail of the Suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters as of May 1, 2017 and to all opposing attorneys and presiding Judges in litigation pending as of May 1, 2017. 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 Suspension, May 1, 2017, and make such arrangements as are required herein within 45 days of the effective date of the Suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the 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 Suspension, May 1, 2017, he shall submit an affidavit to that effect within 60 days of the effective date of the 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.

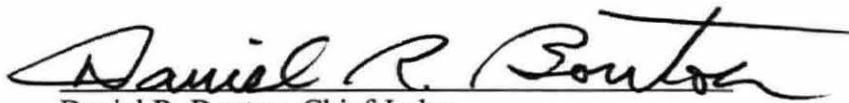
The Clerk of the Disciplinary System shall assess costs pursuant to ¶13-9 E. of the Rules.

A copy teste of this Order shall be mailed, certified mail, return receipt requested, to the Respondent, Neil Kuchinsky, at his last address of record with the Virginia State Bar, 200 Lakeview Ave. Ste. B, Colonial Heights, VA 23834-0125, with an attested copy to: Rhett M. Daniel, counsel for Respondent, 3420 Pump Road, #170, Richmond, VA 23233, and to Kathryn R. Montgomery, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026, and to the Clerk of the Disciplinary System, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026.

Pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia, the Court dispenses with the endorsement of counsel.

ENTERED THIS 14th DAY OF March, 2017

CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD



Daniel R. Bouton, Chief Judge
Three-Judge Circuit Court

A COPY TESTE:
WENDY S. HUGHES, CLERK

BY: C.L. Beuleck
DEPUTY CLERK

VIRGINIA:

BEFORE THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

VIRGINIA STATE BAR EX REL
THIRD DISTRICT COMMITTEE
VSB Docket No. 16-033-105536

v.

Case No. CL16-3242

NEIL KUCHINSKY

AGREED DISPOSITION
(FIVE-YEAR SUSPENSION)

Pursuant to Virginia Code Section 54.1-3935.B. and the Rules of the Supreme Court of Virginia Part 6, Section IV, Paragraph 13-6.H., the Virginia State Bar, by Deputy Bar Counsel Kathryn R. Montgomery, and Neil Kuchinsky, Respondent, and Rhett M. Daniel, Respondent's counsel, hereby enter into the following Agreed Disposition for a Five-Year Suspension effective May 1, 2017 arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. Respondent was licensed to practice law in Virginia on May 8, 1984. At all times relevant to this matter, he was active and in good standing with the Virginia State Bar.
2. Jane Doe ("Doe") was a notary public. In June 2013, Doe was contacted by Julie Belcher, a lifelong friend and neighbor, who asked Doe to notarize a document related to insurance proceeds and funeral arrangements for her father. Thereafter, while at her place of employment, Doe notarized an unsigned document ("Unsigned Document") for Julie Belcher.
3. In August 2013, a police detective contacted Doe and reported that the signature on the Unsigned Document was a forgery, and that William Belcher, Julie Belcher's brother and the person whose signature had been forged on the Unsigned Document, had been incarcerated at the time the document was notarized by Doe. Doe admitted to the officer that she had notarized the Unsigned Document at the request of Julie Belcher, despite the fact that William Belcher had not been present. Following this interview, Doe did not hear further from law enforcement about her notarization of the Unsigned Document.

4. On April 17, 2015, on behalf of his client William Belcher ("Belcher"), Respondent filed a lawsuit ("Lawsuit") against Doe in the Hopewell Circuit Court. The Lawsuit alleged that by notarizing the Unsigned Document, Doe had committed official misconduct in violation of Virginia Code Section 47.1-26, and had facilitated a fraud by Julie Belcher that had caused William Belcher to suffer a loss of \$10,157.85. The Lawsuit demanded general damages of \$10,157.85 and punitive damages of \$100,000.00.
5. In April 2015, Doe received a copy of the Lawsuit by mail, and Doe called Respondent to ask why she was sued and what to do. During this conversation, Doe told Respondent she had little financial resources and did not know how she could pay a judgment. Doe told Respondent that she was employed and where she worked. Respondent recalls Doe saying she would be willing to discuss the Lawsuit in person later in the week.
6. On April 23, 2015, Respondent called Doe at work and asked if Doe wanted to make an appointment to discuss settlement of the Lawsuit. Doe agreed to meet with Respondent at his office after she got off work that day.
7. Before she arrived at Respondent's office, Doe contacted a friend, Mimi Canada, and asked Mimi Canada to accompany her to Respondent's office. Mimi Canada was unavailable and suggested that Doe record the meeting.
8. At approximately 6:00 p.m. on April 23, 2015, Doe and Respondent met alone in a conference room at his office. Unbeknownst to Respondent, Doe had started making an audio recording on her cell phone before she exited a vehicle and continued recording throughout and after the meeting, even when she was alone in Respondent's conference room.
9. During the meeting, Respondent suggested a settlement of the Lawsuit in which Doe would pay the settlement proceeds over five years. When Doe indicated that she had no money for settlement, Respondent offered to settle the Lawsuit in full if Doe would engage in intimate contact with him.
10. The meeting ended soon after a cleaning crew arrived at Respondent's office and Respondent left Doe in the conference room alone. Doe texted for approximately two minutes and then left Respondent's office.
11. During the bar's investigation of this matter, Jane Doe advised the bar investigator that she drove herself to Respondent's office. Following the bar's investigation, however, two members of Respondent's office cleaning crew advised Respondent that they saw Jane Doe in Respondent's empty office parking lot, and that they did not see Jane Doe's vehicle.

12. Doe made a call from the parking lot of Respondent's office. Doe then went to O'Charley's Bar & Grill with Mimi Canada and her husband Bill Canada where she played them the recording of the meeting.
13. A special prosecutor was appointed, but later declined to prosecute Respondent for lack of criminal evidence.
14. On March 15, 2016, the bar received a complaint against Respondent from William B. Bray, Commonwealth's Attorney for Colonial Heights, alleging misconduct based on Respondent's meeting with Doe on April 23, 2015.
15. After the bar complaint was filed, Respondent wrote his client William Belcher a letter stating that he must withdraw from his representation of Mr. Belcher because of a conflict. After receiving the letter, Mr. Belcher called Respondent and Respondent told him about his meeting with Jane Doe and the criminal investigation that did not result in charges. Respondent then assisted Mr. Belcher in obtaining substitute counsel for the Lawsuit against Jane Doe.

II. NATURE OF MISCONDUCT

The parties agree that such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.7 Conflict of Interest: General Rule

- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (2) there is significant risk that the representation of one client... will be materially limited by a personal interest of the lawyer.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a deliberately wrongful act that reflects adversely on the lawyer's fitness to practice law;

III. PROPOSED DISPOSITION

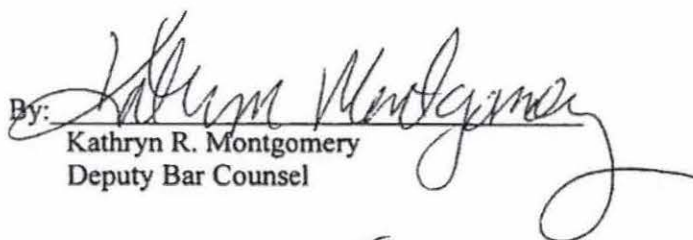
Accordingly, Deputy Bar Counsel, Respondent, and Respondent's counsel tender to the Three-Judge Circuit Court for its approval the Agreed Disposition of a Five-Year Suspension effective May 1, 2017 as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Circuit Court.

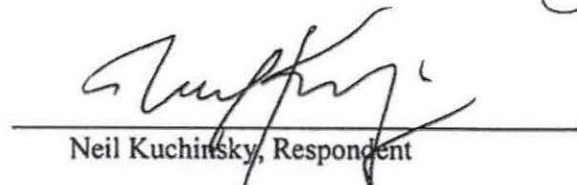
Respondent understands and agrees that if the Five-Year Suspension is approved and imposed, he shall comply with the requirements of Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia.

By entering into this Agreed Disposition, Respondent and his counsel agree to waive any right to appeal the Five-Year Suspension if the Agreed Disposition is approved and the Five-Year Suspension is imposed by the Circuit Court.

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

THE VIRGINIA STATE BAR

By: 
Kathryn R. Montgomery
Deputy Bar Counsel


Neil Kuchinsky, Respondent


Rhett M. Daniel, Esquire