

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF

MICHAEL ANTHONY LORMAND

VSB DOCKET NO.: 18-031-112311

MEMORANDUM ORDER

THIS MATTER came on to be heard on June 22, 2018, on the Petition of the Virginia State Bar for Expedited Hearing, before a panel of the Disciplinary Board (“Board”) consisting of Lisa A. Wilson, 1st Vice Chair, Thomas R. Scott, Jr., Yvonne S. Gibney, Michael J. Sobey, and Tambera D. Stephenson, lay member. The Virginia State Bar was represented by Kathryn R. Montgomery. (“Bar Counsel”). The Chair called the case after the appointed time and the Respondent was not present and was not represented by counsel. The Chair polled the members of the Board Panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative. Tracy J. Stroh, certified court reporter, P.O. Box 9349, Richmond, VA 23227, telephone number 804-730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

All required notices were timely sent by the Clerk of the Disciplinary System (“Clerk”) to the Respondent by Certified Mail, in the manner prescribed by law. Bar Counsel presented to the Board a letter received by the Respondent indicating he would not appear and yet protesting the procedure going forward on an expedited basis since he had criminal charges pending. The Board considered the letter and noted that no motion to continue the matter was made, the Respondent had actual notice of the proceedings, the Respondent had filed no response, and the letter was insufficient to serve as a request for a continuance.

The Board received Virginia State Bar Exhibits 1-8 without objection and proceeded to hear evidence. The Bar called Grazyba Bojakowski (hereinafter, the Complainant), complaining witness in this matter, who testified that she retained Respondent to recover spousal support arrearages from her ex-husband. Complainant testified that no fee arrangement was ever discussed. She further testified that she did receive some checks from her ex-husband but that other checks were received by the Respondent, cashed by him without her permission, not reported to Complainant, and that she did not receive \$17,500.00 in funds that had been received by the Respondent towards the arrears owed her. The Bar identified exhibits 5K and 5G in support of this testimony. Complainant further testified that she received emails and other correspondence from the Respondent with a “fee arrangement” which she never agreed to. Respondent further stated he would file a show cause against her ex-husband and never did. Complainant then hired a new attorney to handle her matter. The new attorney, Mr. Michael Ewing, sent a letter to Respondent asking for an accounting of the fees and all money received. He received no response from the Respondent.

The Bar then called Cam Moffatt, Bar investigator, who testified as to her report of investigation. She further testified that the Respondent admitted that he maintained no trust account. A review of the bank records provided and admitted into evidence showed that money received from the ex-husband was deposited in the Respondent’s business account and transferred to his personal account before being paid to the client. Records further showed that the business and personal account balances fell below \$17,500 representing the client’s funds which demonstrated that the Respondent had converted the funds to his own use. Respondent admitted that he owes \$17,500.00 but wanted to verify the amount before he paid. To this date,

he has not paid. Investigator Moffatt further testified that the Respondent is currently facing a felony charge arising out of this matter.

Investigator Moffatt further testified that the Respondent was administratively suspended from the practice of law due to failure to comply with MCLE requirements yet he admitted he still had two clients.

The Bar rested and after argument of Bar Counsel, the Board retired to deliberate. After deliberations, the Board returned and announced the following:

Findings of Fact

The Board finds by clear and convincing evidence that:

1. At all relevant times, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent's license to practice law has been administratively suspended since March 14, 2018 for failing to comply with Mandatory Continuing Legal Education (MCLE) requirements.
3. Since at least January 1, 2017, Respondent has failed to maintain a trust account and, as such, has failed to maintain client funds in a trust account.
4. On or about November 2016, Grazyba Bojakowski ("Complainant") retained the Respondent to collect spousal support arrearages. Respondent failed to clearly inform the Complainant of the terms of representation and the fee arrangement.
5. On or about January 27, 2017, Respondent received funds from the Complainant's former spouse in the form of a check for \$7,500.00. Respondent deposited these funds into his business account and later transferred the same to his personal account and paid Complainant out of his personal account.
6. In February and March of 2017, Respondent received checks from Complainant's former spouse payable to the Complainant. Respondent endorsed the checks and deposited them into either his firm's business account or his personal account. Respondent did not notify Complainant he had received these funds nor did he have Complainant's authorization to endorse the checks on her behalf.
7. On or about April 17, 2017, Respondent met with the Complainant and paid her \$23,750 with a check written from his personal account. Respondent also gave Complainant a letter dated April 17, 2017 that stated the check represented \$20,000 in arrears plus \$3,750 in current support. Respondent further stated he was keeping an additional \$10,000 "due to the ongoing

nature of the case” and would refund \$1,000 per month so long as the former spouse continued to make payments. Complainant did not agree with this arrangement. Respondent made no such further payments.

8. In May and July of 2017, Respondent received two more checks from Complainant’s former spouse which he endorsed and deposited into his law firm operating account. Respondent did not notify Complainant of these funds and converted them to his own use.

9. On July 24, 2017, Complainant communicated by email with the Respondent regarding the \$10,000 and expressed her frustration and disappointment with the Respondent. Respondent was deceitful with the Complainant in that he never disclosed that he had received additional funds. Respondent further stated in an email dated September 5, 2017 that he would file a show cause against the former spouse, but never did.

10. Respondent failed to maintain complete records of all of Complainant’s funds coming into his possession and failed to render any accounting.

11. Respondent admitted to the Bar investigator that he has not maintained a trust account and that he owes the Complainant \$17,500.00. Bank records confirm this amount.

12. Respondent’s bank accounts show that he has not maintained the \$17,500 he owes the Complainant in any account.

13. Despite being administratively suspended, Respondent still has two clients.

The Board finds by clear and convincing evidence that Respondent’s conduct violates the following Rules of Professional Conduct:

By failing to notify Complainant of his receipt of funds from Complainant’s former spouse, Respondent failed to keep his client reasonably informed about the status of her legal matter and failed to inform his client of facts pertinent to her case that significantly affected resolution of the matter in violation of Rule 1.4(a) and (c). Respondent also failed to promptly notify his client of the receipt of her funds in violation of Rule 1.15(b)(1).

By failing to adequately explain his fee to Complainant, Respondent violated Rule 1.5(b)

By failing to deposit client funds into a trust account, Respondent violated Rule 1.15(a)(1)

By failing to render any accountings to Complainant of the funds Respondent collected from her former spouse, Respondent violated Rule 1.15(b)(3).

By failing to pay Complainant the spousal support arrearages he collected on her behalf and by converting his client’s funds to his own use, Respondent violated Rule 1.15(b)(4) and (5).

By failing to take steps to protect Complainant's interests upon termination of the representation such as providing the client file or a refund of unearned fees, which were both requested by Complainant, Respondent violated Rule 1.16(d) and (e).

By failing to pay Complainant the spousal support arrearages he collected, by converting his client's funds to his own use, and by endorsing checks written to Complainant without Complainant's knowledge or authorization, Respondent committed a criminal or wrongfully deliberate act that reflects adversely on his honesty, trustworthiness, or fitness to practice law in violation of Rule 8.4(b) of the Rules of Professional Conduct.

By failing to tell Complainant that he had collected additional funds from her former spouse during email exchanges with Complainant in July through September 2017, Respondent engaged in conduct involving dishonesty and deceit that reflects adversely on his fitness to practice law in violation of Rule 8.4(c).

Before proceeding to the sanctions stage of the proceedings, the Board reiterated its reasons previously stated for going forward with this matter despite the Respondent's failure to appear and his statements in the letter presented to the Board. The Board noted that Respondent had actual notice of the hearing date and time, filed no answer, filed no motion for a continuance, that an expedited hearing was granted based on the allegations in the pleadings and that a potential injury to the Complainant and the rest of the public was evident since Respondent was still serving two other clients even though he was under administrative suspension.

The Board then proceeded to hear evidence as to sanctions. The Board received Respondent's prior disciplinary record into evidence as Virginia State Bar Exhibit 9 which revealed no prior disciplinary proceedings. The Board then heard argument of counsel as to aggravating and mitigating factors, particularly a pattern of misconduct, multiple offenses, vulnerability of the victim, Respondent's experience in practice, indifference to restitution and illegal conduct. The Board then retired to deliberate.

After due deliberation, the Board returned and announced a unanimous decision that the Respondent's license to practice law in the Commonwealth of Virginia be REVOKED.

It is, therefore, ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is hereby REVOKED effective June 22, 2018.

It is further ORDERED that 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, return receipt requested, of the 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 client. Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the 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 revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days of the effective day of the revocation. 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.

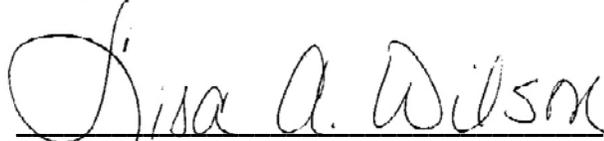
It is further ORDERED that pursuant to Part Six, § IV, ¶ 13-9 E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to respondent at his address of record with the Virginia State Bar, 11721 Park

Forest Court, Glen Allen, VA 23059, by certified mail, return receipt requested, and by hand delivery to Kathryn R. Montgomery, Deputy Bar Counsel, Virginia State Bar.

ENTERED this 6th day of July, 2018.

VIRGINIA STATE BAR DISCIPLINARY BOARD

A handwritten signature in cursive script that reads "Lisa A. Wilson". The signature is written in black ink and is positioned above a horizontal line.

Lisa A. Wilson, Chair