

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
RORY KIERAN NUGENT**

VSb DOCKET NO. 17-053-109426

**AGREED DISPOSITION MEMORANDUM ORDER
FOR A SUSPENSION**

On Wednesday, June 06, 2018, this matter was heard by the Virginia State Bar Disciplinary Board 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 the Rules of the Supreme Court of Virginia. The panel consisted of Lisa A. Wilson, 1st Vice Chair, Yvonne S. Gibney, Bretta Marie Zimmer Lewis, Sandra M. Rohrstaff and Tamera D. Stephenson, Lay Member. The Virginia State Bar was represented by Prescott L. Prince, Assistant Bar Counsel. Rory Kieran Nugent 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, Beverly Lukowsky, 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 Subcommittee Determination - Certification, Respondent's answer, Respondent's disciplinary record, the arguments of the parties, and after due deliberation,

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition and the Respondent shall receive Suspension of his license to practice law in the Commonwealth for a period of two and one-half years, 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 June 6, 2018.

It is further **ORDERED** that:

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 or her care in conformity with the wishes of his or her 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 or she 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

Rory Kieran Nugent

June 6, 2018

Page Two

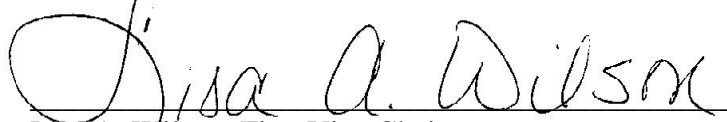
and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

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

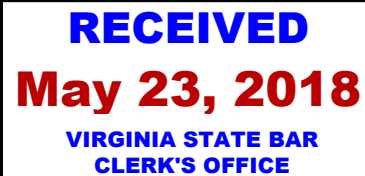
It is further ORDERED that an attested copy of this Order be mailed to the Respondent by certified mail, return receipt requested, at his last address of record with the Virginia State Bar at 1280 Mason Mill Court, Herndon, VA 20170, and a copy hand-delivered to Prescott L. Prince, Assistant Bar Counsel, Virginia State Bar, Suite 700, 1111 E. Main Street, Richmond, VA 23219.

Enter this Order this 6th day of June, 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, First Vice Chair



VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
RORY KIERAN NUGENT**

VS B Docket No. 17-053-109426

AGREED DISPOSITION

(Suspension for Two and One-Half Years)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-15.B.4, the Virginia State Bar by Prescott L. Prince, Assistant Bar Counsel, and the Respondent, Rory Kieran Nugent (“Respondent”), hereby enter into the following Agreed Disposition arising out of the referenced matter.

FINDINGS OF FACT

1. At all times relevant hereto, Rory Kieran Nugent (hereinafter “Respondent”) has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent became employed by the law firm of Rees Broome, PC (“Rees Broome”) in September 2000 and was promoted to the position of Senior Staff Attorney in 2007.
3. Respondent became the attorney for the Reserve Homeowners Association (“RHA”) in early 2012. His primary responsibility was collecting delinquent association dues from residential owners.
4. In mid-2016, issues began to develop regarding Respondent’s work with the RHA. At that time, Matthew Korn, the president of the RHA, perceived that Respondent was being evasive when he questioned Respondent regarding the collection of delinquent accounts. Respondent was required to provide monthly status reports regarding delinquent accounts and Korn perceived that on several of the accounts, discrepancies seemed to exist regarding the progress as reported by Respondent and documents that he reviewed.

5. In early 2017, Respondent was terminated by the RHA, and on 26 April 2017, the RHA retained the services of Drew Terrell, Esquire of the law firm of Whiteford, Taylor & Preston.

6. Respondent did not inform his employer that he had been relieved as counsel for the RHA. They did not learn of this fact until 21 May 2017 when a senior attorney at Rees Broome (Kim O'Halloran-Perez) received an e-mail from Mr. Terrell requesting files and information relating to Respondent's representation of the RHA.

7. Upon learning that Respondent's representation of the RHA had been terminated, Ms. O'Halloran-Perez began to investigate the matter and discovered that Respondent had made false entries into the firm's case management database indicating that he had performed work such as filing court related documents, garnishments and demand letters when, in fact, these actions were not completed by Respondent. She further learned that if clients called requesting information on their case, Respondent would supply false information to them. When she confronted Respondent, he acknowledged the falsehoods.

8. On or about 23 May 2017, in the course of the transition of the cases from Respondent to Mr. Terrell, he (Terrell) sent an e-mail to Respondent requesting clarification of content contained in the client files. In response to this e-mail, Respondent sent an e-mail to Mr. Terrell which stated, *inter alia*:

I've been lying to the Board and management for several months about the status of the Association's collection cases. I wish I had a good explanation for this, but I do not. The best I can do is say that I got overwhelmed and behind, and lied about being on top of things. I continued to lie in order to avoid revealing the truth, thus making the situation worse, and then hoped for a miracle to bail me out.

9. On that same date, Respondent forwarded said e-mail to his employer (Rees Broome), acknowledging his misconduct and resigning from the firm.

10. The above referenced e-mail detailed multiple specific instances in which he had intentionally misrepresented facts regarding the status of cases to the RHA. Among the misrepresentations were:

- Falsely representing that lawsuits had been filed against homeowners when no lawsuits had ever been filed;
- Falsely representing that other pleadings had been filed when no such pleadings had been filed; and
- Falsely representing that garnishments had been filed against a homeowner when no such garnishments had been filed.

11. An internal investigation conducted by Rees Broome revealed additional clients for whom Respondent claimed to have initiated or completed work that he did not do. The instances dated back to 2013, although most instances occurred within the past two years. All instances of false reports of work performed involved collection actions, ranging from liens and garnishments to foreclosures. There was only one instance in which it appeared that Respondent billed a client for work that was not performed, that being a bill of \$117 in 2015. In his answer to the Certification, Respondent asserted that this was an error and not intentional misconduct. The client was reimbursed by Rees Broome and Respondent volunteered to reimburse Rees Broome but, as of the date of this Agreed Disposition, Rees Broome has not requested such reimbursement.

12. Respondent's failure to promptly and diligently represent the RHA constitutes a violation of Rules of Professional Conduct (RPCs) 1.3 (a) & (b).

13. Respondent's failure to properly communicate the status of the cases to his client(s) constitutes violations of RPC 1.4 (a) and (b).

14. Respondent's intentional misrepresentation of facts to his client(s) and to his employer constitutes a violation of RPC 4.1 (a).

15. The dishonesty that infected Respondent's relationship with the RHA and the deceitful course of conduct in which Respondent engaged, including making fraudulent entries in the Rees Broome master computer files, constitutes violations of RPC 8.4 (b) and (c).

16. It is stipulated by the parties that since the time of his initial self-report of misconduct to his former client, Respondent has cooperated with the investigation into the matter both by Rees Broome and the Virginia State Bar. Respondent voluntarily withdrew from the practice of law at the time of his resignation from Rees Broome and he has not engaged in the practice of that law from the time of said resignation until the present.

NATURE OF MISCONDUCT

Such conduct by Rory Kieran Nugent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

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 4.1 Truthfulness In Statements To Others

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of fact or law[.]

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law[.]

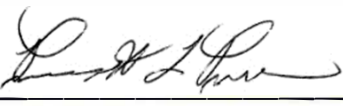
PROPOSED DISPOSITION (SUSPENSION)

Accordingly, Assistant Bar Counsel and Respondent tender to the Disciplinary Board for its approval of the Agreed Disposition of SUSPENSION for a period of TWO AND ONE-HALF (2 ½) YEARS as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. If a panel of the Disciplinary Board accepts this Agreed Disposition, Respondent agrees that it is final and non-appealable.

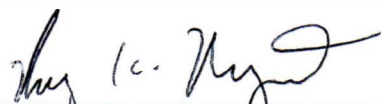
If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee.

Pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-30.B, the Respondent understands that his prior disciplinary record shall be furnished to the Disciplinary Board considering this Agreed Disposition.

THE VIRGINIA STATE BAR

By: 

Prescott L. Prince
Assistant Bar Counsel



Rory Kieran Nugent, *pro se*