VIRGINIA;

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
BRYAN JAMES WALDRON

VSB Docket No. 17-051-106968, 18-051-109817, 18-051-111305, 18-051-111321

ORDER OF REVOCATION

THIS MATTER came on to be heard at 9:00 a.m. on September 28, 2018, at the State Corporation Commission, Courtroom B, Tyler Building, 1300 East Main Street, Richmond, Virginia, before a panel of the Virginia State Bar Disciplinary Board ("Board") consisting of Lisa A. Wilson, Chair, Tambera D. Stephenson, lay member, Brendan K. Feeley, Sandra M. Rohrstaff, and T. Tony H. Pham. The Virginia State Bar was represented by Kathleen M. Uston, Assistant Bar Counsel. The Respondent, Bryan James Waldron, did not appear.

Jennifer L. Hairfield, Court Reporter, of Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing.

The Chair polled the members of the panel as to whether they had any personal or financial interest which would impair, or reasonably could be perceived to impair, any of them from impartially hearing this matter and serving on the panel, to which inquiry each member and the Chair responded in the negative.

These matters came before the Board pursuant to a Petition for Expedited Hearing Before the Disciplinary Board (the "Petition") pursuant to Part 6, Section IV, Paragraphs 13-18.D., Rules of the Supreme Court of Virginia, filed in the Clerk's Office on August 15, 2018, and served on Respondent via Certified Mail on August 31, 2018. The Clerk's Office sent to Respondent, also by Certified Mail, at his address of record, on August 31, 2018, a Notice of

Expedited Hearing, with an Order directing Respondent to appear before the Board on the date, at the time and in the location above set out. As noted above, Respondent did not appear when the Hearing convened as scheduled. The Chair requested the Assistant Clerk, Kathleen LaMotte to call Respondent's name three times in the hallway, which was done with no response.

The Petition[1] alleged that Respondent violated certain specified Rules under the Virginia Rules of Professional Conduct ("Rules") and that the Respondent's "continued presence on the role of attorneys in this Commonwealth would result in imminent further injury to, and loss of property of, her clients and other persons." The Rules alleged to have been violated were Rules 1.1, 1.3, 1.4, 1.15(a)(1), 1.15(b)(5), 4.1(a), 5.5, 8.1(a), 8.4(b) and 8.4(c).

Summary of Evidence Presented to the Board

Ms. Uston then made an opening statement on behalf of the Bar requesting revocation of Mr. Waldron's license by the Board and moved into evidence Bar Exhibits 1 - 20, previously provided to the Panel. Ms. Uston also advised the Board that Respondent's license to practice law in the Commonwealth of Virginia had been suspended since October 11, 2017 due to his failure to meet CLE requirements and failure to pay his bar dues.

The Bar's evidence in support of all four of the complaints was provided through Investigator David Fennessey, who was called to testify on behalf of the Bar as to the results of his investigations.[2]

[1] During the hearing, Bar Counsel advised that Paragraph 11 of the Petition was inaccurate, and it was stricken from the record.

[2] Investigator Fennessey investigated the facts underlying the complaints of each of the Complainants by reviewing all relevant documents (including bank account records subpoenaed by the Bar, court records, email communications), and interviewing individuals with information. He also attempted to speak to Respondent,

In July and August 2018, Inv. Fennessey attempted to speak to Respondent about the four complaints he was investigating on behalf of the Bar. He made arrangements to meet with Respondent on two separate occasions. Respondent canceled at the last minute for the first appointment. Another appointment was made, but Respondent did not appear, and Inv. Fennessey has not heard from him since then.

VSB Docket No. 18-051-109817 -- Revolution Redemptions, LLC

Revolution Redemptions, LLC ("RR") locates unclaimed funds being held by state and local agencies, contacts the rightful owners of the funds and offers to collect those funds on their behalf for a fee 33% of the amount recovered. RR had located funds belonging to Theodore Wertz, deceased, Ms. Ackeridge's father. On August 21, 2015, RR and Deni Ackeridge entered into such a contract (Exhibit #1). According to ¶ 3.2 of Exhibit 1, the individual who actually receives the funds, whether the claimant or an attorney acting on behalf of a claimant, is obligated to pay RR's fee.

On or about September 14, 2015, RR entered into a Referral Agreement (Exhibit #2) with Respondent, whose responsibility it was to facilitate collecting the funds. For his services, Respondent was to be paid specific amounts by RR once various actions had been completed by him. The claimant was not responsible for paying any fee to Respondent. In December 2015, Ms. Ackeridge retained Respondent to seek the release of the unclaimed funds from Fairfax County (Exhibit #21). Consistent with Exhibits ## 1 and 2, Exhibit #21 confirms that Ms. Ackeridge would owe Respondent no legal fees for his services.

On June 24, 2016, a Fairfax Circuit Court judge entered an Order appointing Respondent as administrator of the estate of Theodore W. Wertz (Exhibit #3) and further ordered the Clerk to disburse $15,804.30 to Respondent upon his qualification as administrator of the estate of

Theodore W. Wertz (Exhibit #3). Respondent qualified as administrator of Mr. Wertz's estate and received a check from the Clerk of the Circuit Court of Fairfax County in the amount of $15,804.30 (Exhibit #4).[3] On June 27, 2016, Respondent deposited $15,804.30 into BB&T checking account ending in 1858 (Exhibit #5) and it cleared the Clerk's checking account on June 28, 2016 (Exhibit #6).[4] BB&T checking account ending in 1858 was Respondent's personal checking account. Under these arrangements, RR was to have received $5,215.00 (33% of $15,804.30) and Ms. Ackeridge $10,589.30.

The bank statement dated July 21, 2016 for BB&T checking account ending in 1858 (Exhibit #7), shows that $15,804.30 was deposited into Respondent's personal checking account on June 27, 2016 and was the only deposit made into that account between the dates reflected in that statement, June 22 - July 21, 2016.

On July 5, 2016, Respondent wired $3,750.00 from his personal checking account (1858) to RR (Exhibit #7). This amount was $1,465.00 short of the 33% fee of $5,215.00 that RR was to have received in the Ackeridge matter. Ms. Ackeridge has never been paid any of the $10,589.30 she was to have received. Respondent kept $12,054.30 in his personal checking account and used it for his own purposes.

Exhibits ##7 and 8 (bank statements of Respondent's personal BB&T checking account) reflect that $15,804.30 was the only deposit made between June 21 and August 22, 2016, and that at the end of that period, the balance in his personal checking account was $2,809.67. Both bank statements reflect that the withdrawals from his personal checking account were used for personal purchases.

[3] Exhibit #4 also contains Respondent's endorsement on the back of check #88769, the Clerk's disbursement check to him.

[4] The bank records relied upon by Investigator Fennessey were obtained by the Virginia State Bar by subpoena.

Although Respondent maintained an escrow account at Citibank (account ending in 1017)[5] at the time he made the deposit into his personal BB&T checking account, no activity is reflected in that account between June 1 and August 31, 2016 (Exhibit #9).

Ms. Ackeridge stated that the last contact she had with Respondent was in June 2016, the same month that Respondent received the $15,804.30 from the Clerk. (Exhibit #18). In that conversation, Respondent told her that the judge wanted to disburse the funds directly to her and asked if she could come to Virginia to appear before the judge to receive the funds, a statement that Respondent knew to be false at the time he made it. She told him she was unable to make the trip for health and financial reasons. That was the last communication she had with Respondent.

Respondent gave Bar Counsel an additional false excuse for not having paid Ms. Ackeridge. In email correspondence from Respondent to Bar Counsel (Exhibit #10), he stated, ". . . Ms. Ackeridge will be receiving her funds as soon as the Fairfax probate office clears the account for distribution. . . . Part of the delay was the court mistakenly told me in February I had paid all the fees, yet in June was informed I had not." At the time Respondent communicated that remark to Bar Counsel on August 10, 2017, he knew it was not true.

In addition, a representative of the Commissioner of Accounts in Fairfax County stated in January and again in August 2018 that there was no restriction from their office that prevented him from distributing the funds, and that he would have to document any payment made out of that account. Furthermore, Respondent's comments in Exhibit # 10 that he had been unable to reach Ms. Ackeridge were not consistent with Inv. Fennessey's experience. He had no trouble reaching her, and her contact information was the same as it was when she was represented by Respondent.

[5] The Virginia State Bar's Petition incorrectly identifies Respondent's escrow account as ending in 4260 in paragraphs 14, 17 and 25. The error was corrected during the presentation of evidence.

VSB Docket No. 18-051-111305 – Fouad Fillali

The complaint of Fouad Fillali also arises out of a relationship with Revolution Redemptions (RR). Mr. Fillali was contacted by RR with information that RR had discovered funds owed to him and being held by Fairfax Circuit Court from a resolved dispute with his condominium association. Mr. Fillali signed an agreement with RR on or around June 5, 2015, similar to the agreements signed by Ms. Ackeridge, in which he agreed that RR would seek the return of the funds and would be paid 33% of the funds recovered. Thereafter, he signed an agreement with Respondent in which Respondent agreed to seek return of Mr. Fillali's funds.

A Consent Order of Payment entered on April 26, 2016, by the Circuit Court of Fairfax County resolving the dispute over the surplus funds reflected that Mr. Fillalai was to receive $12,500. The Order (Exhibit #11) directed that sum to be disbursed to Respondent for Mr. Fallali (Exhibit #11), and issued check #88571 payable to Respondent on April 28, 2016 (Exhibit #12).

Respondent endorsed the check for deposit into his personal account (Exhibit #12)[6] and deposited the entire amount (less $100 in cash).

Instead of paying RR 33% of the funds recovered and the balance to Mr. Fallali as required by the contracts, on May 9, 2016, Respondent wired $2,500 to RR (Exhibit #19), and on July 13, 2016, Respondent wrote a check to Mr. Fillali in the amount of $2,000.00 (Exhibit #13), purporting to be his portion of the recovered funds. Mr. Fallali was to have received $8,375.00 and RR was due $4,125.00. When asked by Mr. Fallali about the amount of the check, Respondent told Mr. Fallali that it was a down payment and promised to send the remaining amount to him. Mr. Fallali never received the money from Respondent. Respondent transferred

[6] Exhibit #19 is Respondent's bank statement of May 20, 2016 that reflects the deposit, as well as the wire transfer to RR.

via wire $2,500.00 to RR on May 9, 2016 (Exhibit #19). Respondent kept $8,000 of the $12,500 supposedly recovered on behalf of Mr. Fallali. Exhibit #19 also reflects that no deposits were made into Respondent's personal checking account between April 21 and May 20, 2016 other than the $12,500.00 from Mr. Fallali's claim and that the money he kept from RR and Mr. Fallali was used to pay his personal expenses.

VSB Docket No. 18-051-111321, Scott Lentz

Mr. Lentz wanted to collect funds owed to him for nonpayment by another condo owner who did not pay him for the purchase of his (Mr. Lentz's) parking space. Mr. Lentz hired Respondent, who sued to recover the amount owed. Suit was filed on July 10, 2017 and trial was set for December 7, 2017.[7]

On December 6, 2017, the evening before the trial, Respondent and opposing counsel Taylor Siegel were to meet and continue to communicate via email to try to negotiate a settlement of the case (Exhibit #20). Respondent did not appear in court on December 7, the date of the trial, and Mr. Siegel was not able to reach him. Mr. Siegel did not know that Respondent's license had been suspended. Believing he had a settlement, Mr. Siegel continued the case. He thereafter continued to try to reach Respondent for a few days and never got a response.

Mr. Lentz never authorized Respondent to negotiate any settlement with opposing counsel, and he did not know that Respondent's license to practice law had been suspended.[8]

VSB Docket No. 17-051-106968 – L. Jack Gray

[7] Respondent's license had been administratively suspended on October 11, 2017 (Exhibit #22) and had not been reinstated in December 2017.

[8] Mr. Lentz retained Daniel Poretz to pursue his claim against Respondent. Mr. Poretz filed a Bill of Particulars on behalf of Mr. Lentz in the General District Court of the City of Alexandria on or about May 3, 2018. That action was later nonsuited.

Mr. Gray retained Respondent on September 24, 2015 and paid Respondent a fee of $1,000.00 ($900.00 by check and $100.00 in cash). Funds in the amount of $700 from Mr. Gray were deposited into Respondent's personal checking account on that date (Exhibits ##15 and 16). Respondent filed suit on behalf of Mr. Gray in the Circuit Court of Arlington County.

On January 22, 2016, an Order was entered in the case requiring Respondent to file certain documents, including a revised Complaint that complied with a prior ruling of the court. Respondent failed to comply with the court's order, and, without Mr. Gray's knowledge, his case was dismissed on April 15, 2016. Respondent did not appear at the hearing on April 15, 2016 and did not inform Mr. Gray that his case had been dismissed. Mr. Gray later went to the courthouse to look at the records to find out when their next court date was and discovered that his case had been dismissed.

SUMMARY OF BOARD'S FINDINGS

Having presented this evidence, the Bar rested its case and made closing argument. The Board retired to consider the evidence and the violations charged. After deliberation and considering the evidence presented and exhibits received, the hearing was reconvened and the chair announced the unanimous decision of the Board as follows:

> As to Rule 1.1, **Competence. A lawyer shall provide competent representation to a client**.

The Bar proved by clear and convincing evidence that Respondent did not exhibit competence in representing his clients. In Mr. Gray's matter, Respondent did not respond to a Court order requiring him to, among other things, amend the Complaint he had filed, and the case was dismissed. His license had been suspended due to failure to meet CLE requirements and for failure to pay bar dues since October 11, 2017. He continued to negotiate a settlement in Mr.

Lentz's matter after his license was suspended and did not appear in court on December 7, 2017.

> As to Rule 1.3, **Diligence. A lawyer shall act with reasonable diligence and promptness in representing a client . . . [and] shall not intentionally prejudice or damage a client during the course of the professional relationship . . . .**

The Bar proved by clear and convincing evidence that Respondent did not act with reasonable diligence in representing his clients. His noncompliance with a court order to file additional pleadings resulted in Mr. Gray's case being dismissed.

> As to 1.4, **Communication. A lawyer shall keep a client reasonably informed , . . and comply with reasonable requests for information . . . and shall inform the client of facts pertinent to the matter.**

The Bar proved by clear and convincing evidence that Respondent failed to keep Mr. Gray and Mr. Lentz informed of matters pertaining to their cases. Mr. Gray found out that his case had been dismissed only when he went to the courthouse himself to check on the status. As to Mr. Lentz, Respondent proceeded to negotiate a settlement of his case without authority and without ever telling Mr. Lentz that he was doing so.

> As to Rule 1.15(a)(1), **Safekeeping Property. Depositing Funds. All funds received or escrow accounts . . . .**

The Bar proved by clear and convincing evidence that Respondent on multiple occasions did not deposit client funds into his escrow account. In the Ackeridge matter, he deposited the funds that had been held by the Circuit Court Clerk of Fairfax County on behalf of the state of Theodore W. Wertz in the amount of $15,804.30 into his personal account. In the matter of Mr. Fillali, he deposited $12,500.00 ordered by the Court to be paid to Respondent on behalf of Mr. Fillali into his personal account (less cash withheld). In the matter of Mr. Gray, he deposited the unearned $1,000.00 retainer paid to him (less cash withheld) into this personal checking account.

> As to Rule 1.15(b)(5), **Safekeeping Property. Specific Duties.** A lawyer shall **. . . not disburse . . . or convert funds . . . of a client . . . without their consent. . . .**

The Bar proved by clear and convincing evidence that Respondent repeatedly deposited

client funds into his personal checking account and used those funds for his own personal purposes. Furthermore, the amounts paid by Respondent that purported to be the amounts owed to Revolution Redemptions, LLC, and Mr. Fillali were several thousand dollars less than the amounts actually due them. Respondent never paid Ms. Ackeridge the amount due her from funds that had been held for her father's estate.

> As to Rule 4.1(a), **Truthfulness in Statements to Others**: **In the course of representing a client a lawyer shall not knowingly make a false statement of fact or law. . . .**

The Bar proved by clear and convincing evidence that Respondent knowingly made numerous misstatements of fact and law. Respondent knew that the amount of the "fee" he sent to Revolution Redemptions, LLC in the Ackeridge matter was not accurate and was substantially below the correct amount. He also knew that his statements to Ms. Ackeridge that the judge wanted to disburse the funds owed her directly to her was false. Respondent told Mr. Fillali that the $2,000.00 Respondent paid to him was a down payment on the amount actually due him ($8,375.00) and promised to send the remaining amount to him.

> As to Rule 5.5, **Unauthorized Practice of Law . . . A lawyer . . . whose license has been suspended [is not authorized to practice law] during such period of suspension.**

The Bar proved by clear and convincing evidence that Respondent's license had been administratively suspended on October 11, 2017, and that he continued to represent Mr. Lentz during the time of his suspension.

> As to Rule 8.1(a), **Bar Admission and Disciplinary Matters: [A] lawyer . . . in connection with a disciplinary matter . . . shall not . . . knowingly make a false statement of material fact.**

The Bar proved by clear and convincing evidence that Respondent made a false statement to the Bar and its investigator during the investigation of the matters that form the bases of these complaints. In the matter of Ms. Ackeridge, Respondent's explanation that she would be "receiving her funds as soon as the Fairfax probate office clears the account for distribution" was

obviously false since he had already received and converted her funds to his own use.

> As to Rule 8.1(b), **Bar Admission and Disciplinary Matters: [A] lawyer . . . in connection with a disciplinary matter . . . shall not . . . fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter.**

In written communication with Bar Counsel as to the matter of Ms. Ackeridge's funds, Respondent explained that the delay in getting her funds to her was due to the probate office's having given him incorrect information in February that he had paid all the fees, only to learn in June that he had not. As previously explained, this statement was not true.

> As to Rule 8.1(c) and 8.1(d), **Bar Admission and Disciplinary Matters: [A] lawyer . . . in connection with a disciplinary matter . . . shall not . . . fail to respond to a lawful demand for information from . . . [a] disciplinary authority or . . . obstruct a lawful investigation by [a] disciplinary authority.**

The Bar proved by clear and convincing evidence that Respondent did not take steps to truthfully respond to the Bar's investigation into these matters. His statements to the Bar and its investigator as explanations of his inability to pay Ms. Ackeridge the funds owed her, his inability to reach her and his not appearing at meetings that had been set up with the Bar were for the purpose of obstructing the Bar's lawful demand for information and obstructing its lawful investigation's investigator. His claim that he had been unable to reach Ms. Ackeridge was false since Inv. Fennessey had easily reached her and none of her contact information had changed during the course of Respondent's dealings with her.

> As to Rule 8.4(b) and (c), **It is professional misconduct for a lawyer to: (b) commit a criminal or deliberately wrongful act reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law; [and] (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law[.]**

The Bar proved by clear and convincing evidence that Respondent's actions as stated above were criminal or deliberately wrongful acts that involved dishonesty, fraud, deceit or misrepresentation that reflects adversely on his fitness to practice law.

SANCTION

The Board then heard argument by the Bar as to the appropriate sanction to be imposed upon the findings of rule violations recited above. Bar Counsel moved into evidence Exhibit #23, the Certification of Respondent's disciplinary record showing one agreed disposition for a public reprimand with terms issued by the Second District Subcommittee of the Virginia State Bar in VSB Docket No. 16-02-105791, effective February 28, 2017.[9]

The matter that resulted in the Respondent's public reprimand involved actions by the Respondent that were similar to those alleged in this matter. In the matter that resulted in Respondent's public reprimand, Respondent had gotten an Order entered that released surplus funds from the sale of real estate to his client, a lienholder in the property. The Order submitted by Respondent had misrepresented that his client was entitled to the full amount remaining on deposit with the Circuit Court of the City of Norfolk (when he was entitled to none) and that it had been "Seen and Agreed" (when in fact he had not provided notice to the City). That Order was erroneously entered and resulted in the Clerk's office issuing a check in the amount of $27,666.34 to Respondent's client. When Respondent later requested the Clerk's Office to re-issue the check in his name, the Court confronted Respondent and inquired why the Order he had submitted "falsely recited" that the records indicated his client was entitled to the full amount of the surplus funds when his client did not, in fact, have any claim to the funds.

The Second District Subcommittee Determination found misconduct and placed Respondent on probation for three years from the issuance of the Determination. Included in the Determination was the term that "any final determination that Respondent engaged in professional misconduct during this probationary period ... shall conclusively be deemed to be a

[9] The Certification showed that Respondent had met the requirement that he attend the VSB Professionalism Course on March 2, 2017.

violation of this Term." The allegations found by this Board in the matters before it constitute a violation of the terms of the Public Reprimand of the Second District Subcommittee of the Virginia State Bar.

The Board retired to consider the proper sanction.

After deliberation, the hearing was reconvened and the Chair announced the unanimous decision of the Board. Respondent's license was REVOKED effective immediately. A Summary Order was promptly entered and the hearing adjourned.

It is ORDERED that, as directed in the Board's September 28, 2018 Summary Order in this matter, 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(s). 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.

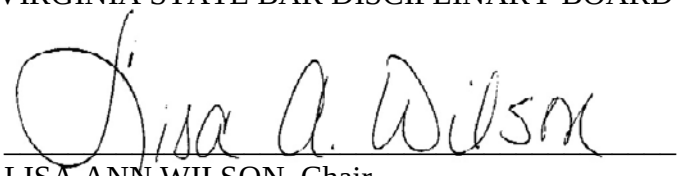
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of the revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-

judge court.

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, being Bryan James Waldron, 11312 Lapham Drive, Oakton, VA 22124, by certified mail, return receipt requested, and by regular mail to Kathleen M. Uston, Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219.

Entered this __15th__ day of October, 2018
VIRGINIA STATE BAR DISCIPLINARY BOARD



LISA ANN WILSON, Chair