

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
MICHAEL STEVEN ARIF**

VSJ DOCKET NO. 19-053-113618

**AGREED DISPOSITION MEMORANDUM ORDER
FIVE-YEAR SUSPENSION WITH TERMS**

The Virginia State Bar Disciplinary Board (“Board”) heard this matter, telephonically, on August 26, 2021, 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 Part Six, Section IV, Paragraph 13-6.H of the *Rules of the Supreme Court of Virginia*. The Board panel consisted of Yvonne S. Gibney, Acting Chair; Michael A. Beverly; Stephanie G. Cox; Jennifer D. Royer; and Martha J. Goodman, Lay Member. 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.

Laura Ann Booberg, Assistant Bar Counsel, represented the Virginia State Bar. Paul D. Georgiadis represented the Respondent, Michael Steven Arif, who was present.

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, as amended, the Certification, Respondent’s Disciplinary Record, the arguments of the parties, and after due deliberation,

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition, as amended, and the Respondent shall receive a five-year suspension with terms, as set forth in the Agreed

Disposition, as amended, which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the Suspension is effective August 26, 2021.

It is further **ORDERED** that:

The Respondent shall 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 of the Suspension 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 the 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. The Respondent shall give such notice within 14 days of the effective date of the Suspension, 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 date 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, 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 Paragraph 13-29.

The Clerk of the Disciplinary System shall assess costs pursuant to Part Six, Section IV, Paragraph 13-9.E of the *Rules of the Supreme Court of Virginia*.

It is further **ORDERED** that an attested copy of this Order be mailed to the Respondent by electronic, regular first-class and certified mail, return receipt requested, at his last address of record with the Virginia State Bar at 3900 University Dr., Suite 100, Fairfax, VA 22030, and a copy by electronic mail to Paul D. Georgiadis, Respondent's counsel, and a copy by electronic mail to Laura Ann Booberg, Assistant Bar Counsel.

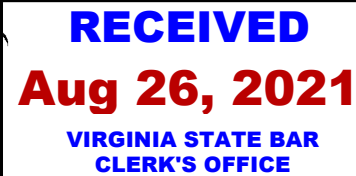
Entered this 26th day of August 2021

VIRGINIA STATE BAR DISCIPLINARY BOARD

Yvonne S. Gibney

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Yvonne S. Gibney
Acting Chair



VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
MICHAEL STEVEN ARIF

VSJ Docket No. 19-053-113618

AGREED DISPOSITION
(FIVE-YEAR SUSPENSION WITH TERMS)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Laura Ann Booberg, Assistant Bar Counsel and Michael Steven Arif, Respondent, and Paul Dimitri Georgiadis, Respondent's counsel, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. Respondent was admitted to the Virginia State Bar ("VSB") on October 8, 1981. At all relevant times, Respondent was a member of the VSB.
2. Respondent was appointed as the *guardian ad litem* ("GAL") of a minor child, JMV¹, on March 8, 2011. JMV received permanent injuries during his birth in August 2005, and was represented by Joel Atlas Skirble & Associates, LLC in a medical malpractice case that was tried in Prince William County Circuit Court. Following a jury verdict in favor of JMV for \$2,500,000, the matter was settled for \$1,450,000. On April 22, 2011 the court entered an Order Approving Compromise Settlement and Disbursement ("the settlement"). Following the settlement, Respondent was released as GAL.
3. As part of the settlement, two separate accounts were established for the benefit of JMV. The first contained funds for a structured settlement annuity from Prudential Insurance Company of America in the amount of \$650,000 ("the Prudential Trust") to be paid out via a schedule dictated in the settlement order. Respondent had no control over this account. However, pursuant to the settlement order, scheduled payments were made from the Prudential Trust to Respondent for payment to JMV.
4. The second account, the JMV Irrevocable Special Needs trust ("SNT"), contained \$121,560.54. Respondent was authorized to pay his GAL fee of \$3,564.00 out of these funds. He was appointed trustee of the remaining \$117,996.54 in the SNT to be paid out "to result in the highest quality of human life possible for JMV." Respondent placed the remaining funds in the SNT in an account at BB&T in May 2011. The settlement order

¹ Initials have been used to protect the identity of the minor child.

and terms of the SNT permitted Respondent to pay up to \$1,000.00 per month for rent and other essential expenses for JMV.

5. The settlement order stated that Respondent “shall” qualify as trustee before the Clerk of the Circuit Court and provide Inventory and Accountings to the Commissioner of Accounts. To date, more than 9 years after he began acting as a fiduciary for the SNT, Respondent still has not qualified as trustee and has not provided accountings to the Commissioner of Accounts. He told Virginia State Bar Investigator David Fennessey (“Investigator Fennessey”) that no one monitors him or has oversight over his handling of the SNT.
6. JMV’s mother, Nicolasa Vargas (“Vargas”) filed this bar complaint on September 14, 2018. She has two disabled children and does not speak fluent English. Vargas complained to the bar that Respondent had ceased paying JMV’s rent, and that Respondent would not provide her with accountings for the SNT.
7. On July 30, 2014, Respondent wrote a check from the SNT to Fresia Oliud (“Oliud”) for \$4,000.00 for an auto loan. He told Investigator Fennessey that one of his other clients needed a short-term loan and he did not have personal funds to lend the client. He lent Oliud the money from the SNT with ledger notation of “Auto loan 36 mos @ 9.9%.” A review of Respondent’s trust account bank statements and check registers shows that Oliud only repaid \$3,000.00. There is no indication that Oliud paid any interest on the loan. Vargas was not made aware of this transaction. She told Investigator Fennessey that, had she been consulted, she would never have agreed to funding a loan from the SNT.
8. From October 21, 2014 through November 14, 2015, Respondent wrote checks to his law firm from the SNT. He told Investigator Fennessey that he could not afford to pay law firm expenses and salaries with his own funds, so he loaned himself the money from the SNT.
9. The first check, with the notation “Short Term Loan” was written on October 21, 2014 and payable to Respondent’s law firm in the amount of \$6,000.00. Respondent paid back \$6,000.00 to the SNT on October 31, 2014.
10. From January 16, 2015 through November 14, 2015, Respondent wrote 13 checks from the SNT to his firm, totaling \$60,000.00.
11. Respondent told Investigator Fennessey that he asked Vargas if he could take a loan from the SNT and pay it back at a higher interest rate than the bank was paying. He stated that Vargas “tacitly” agreed. He did not prepare a document memorializing the alleged tacit agreement. Vargas denies ever having a conversation with Respondent or giving her consent to Respondent’s use of the funds from her son’s SNT for Respondent’s own benefit.

12. From August 31, 2015 through December 31, 2018, Respondent made six deposits into the SNT from his firm account, totaling \$33,350.00.
13. Respondent made \$1,000.00 monthly payments to Vargas' landlord from 2011 to 2017. Respondent made these payments directly to the landlord because he stated that he did not trust Vargas not to use the funds for her own personal expenses. Respondent told Investigator Fennessey that he stopped making rent payments in September 2017 because he was irritated with Vargas and believed she was living with a pedophile. Despite this belief, Respondent did not contact law enforcement or Child Protective Services. After being alerted about these alleged serious safety issues concerning JMV's living arrangements, Respondent did not visit JMV to investigate.
14. In September 2017, Respondent gave a different excuse to Vargas as to why he stopped paying JMV's rent. According to Vargas, Respondent told her that there were no more funds in the SNT and that Vargas needed to work two jobs to support JMV. Respondent refused to provide Vargas with copies of the SNT bank statements despite the fact that JMV was a minor and Vargas, as his mother, was entitled to receive them.² SNT bank records show that on September 11, 2017 Respondent paid the landlord \$3,000 for July 2017 through September 2017 rent. Since the SNT funds balance was only \$321.17 as of August 31, 2017, Respondent deposited \$3,000 of his personal funds into the SNT on September 12, 2017 to cover the deficit.
15. Respondent last met with Vargas at a meeting with her immigration attorney on October 22, 2018. At that time, Respondent agreed to make two more rent payments for JMV. Vargas told Investigator Fennessey that Respondent issued check No. 1099 dated October 23, 2018, in the amount of \$1,000.00 payable to her landlord from the trust. The check was returned for insufficient funds. The October 31, 2018 bank statement for the SNT indicates an opening balance of \$126.18 and a subsequent deposit of \$1,500.00 of Respondent's personal funds on October 24, 2018. Respondent replaced the check to the landlord with Check No. 1100 dated December 4, 2018. On December 18, 2018, Respondent made one more \$1,000 rent payment to the landlord. In an email exchange with Vargas and her interpreter concerning the returned check, Respondent blamed the overdraft on the bank. No further rent payments have been made.
16. Respondent also charged the SNT attorney's fees for assisting with Vargas' immigration case, a criminal matter and the loss of social security benefits for JMV. He told Investigator Fennessey that he performed this work between May 2017 and October 2019

² Va. Code § 64.2-775, Duty to Inform and Report, provides that a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust. A trustee who fails to furnish information to a beneficiary or respond to a request for information regarding the administration of the trust in a good faith belief that to do so would be unreasonable under the circumstances or contrary to the purposes of the settlor shall not be subject to removal or other sanctions therefor.

at the rate of \$425.00 per hour, for a total of \$12,356.68. Of this amount, he applied \$10,919.64 as a credit to his "loan" from the SNT. According to Respondent, he still owes the trust \$12,392.65. However, that amount includes his credit for assisting Vargas with the immigration, criminal and social security matters. Respondent did not seek permission from Vargas to apply this credit against the amount he converted from the SNT.

17. Pursuant to the schedule in the settlement order, Respondent also received funds for JMV from the Prudential Trust payable to the SNT. He provided a check to Vargas for \$7,000.00 on November 25, 2019. Respondent received another \$7,000.00 Prudential check in December 2019. As of February 24, 2020, he had not provided the December check to Vargas. When asked by Investigator Fennessey why he did not pay the check to Vargas, he stated that [Vargas] is irresponsible, and she will just "piss it away." On April 30, 2020, Respondent issued a portion of these funds via a check to Vargas for \$6,500.00. On July 31, 2020, Respondent issued another check to Vargas for \$7,000.00 after receiving these funds from the Prudential Trust on July 1, 2020.
18. Vargas told Investigator Fennessey that when she filed the instant complaint, Respondent asked her to withdraw it. Although Vargas questioned Respondent's handling of SNT funds, Respondent made no mention of his "loans" from the SNT in his response to the bar.
19. On July 21, 2021, Respondent deposited \$14,500 into the SNT, bringing the July 31, 2021 statement balance to \$21,653.50. Respondent contends that said payment represented payment of any remaining balance due on the loan as well as interest on the debt.

II. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct³:

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.

³ Virginia State Bar Legal Ethics Opinion 1335 provides that "the Code of Professional Responsibility is equally applicable to an attorney who is acting in the capacity of a fiduciary although not necessarily engaged in an attorney-client relationship with the person for whom he is so acting." (See LE Op. 1515; ABA Formal Opinion No. 336)

(c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

RULE 1.15 Safekeeping Property

(b) Specific Duties. A lawyer shall:

(4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer that such person is entitled to receive; and

(5) not disburse funds or use property of a client or of a third party with a valid lien or assignment without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter;

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;

III. PROPOSED DISPOSITION

Accordingly, bar counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of a five-year suspension of Respondent's license to practice law in the Commonwealth of Virginia as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. Bar counsel and Respondent agree that the effective date for the sanction shall be the date of entry of the Disciplinary Board Order approving this Agreed Disposition. The terms with which Respondent must comply are as follows:

20. Within ten (10) days of the date of entry of the Disciplinary Board Order approving this Agreed Disposition, Respondent shall file an appropriate action seeking the aid and direction of the court over the SNT administration, including the appointment of a successor trustee and Respondent's intended resignation, pursuant to Article V.B.1 of the SNT, and an accounting of Respondent's actions as trustee. While the matter is pending before the court, Respondent agrees not to disburse any funds from the SNT without prior approval of the court or its designee, including the Commissioner of Accounts. Respondent shall simultaneously provide copies of all filings and resulting orders to Vargas and Assistant Bar Counsel Laura Ann Booberg.
21. Within 10 days of receiving direction from the court regarding the appointment of a successor trustee, Respondent shall resign as trustee and simultaneously provide copies of all filings and resulting orders to Vargas and Assistant Bar Counsel Laura Ann Booberg.
22. Within ten (10) days of receiving direction from the court, Respondent shall file with the Commissioner of Accounts of Prince William County, an accounting of the SNT. Respondent shall simultaneously provide a copy of the accounting and any further correspondence to Vargas and Assistant Bar Counsel Laura Ann Booberg.
23. Within fourteen (14) days of a notice of deficiency of concern or demand, Respondent shall comply with all demands of the Commissioner of Accounts, the Circuit Court of Prince William County, and any successor trustee regarding the SNT, including reimbursing the trust for any deficiencies.


Upon satisfactory proof that all terms and conditions have been met, this matter shall be closed.

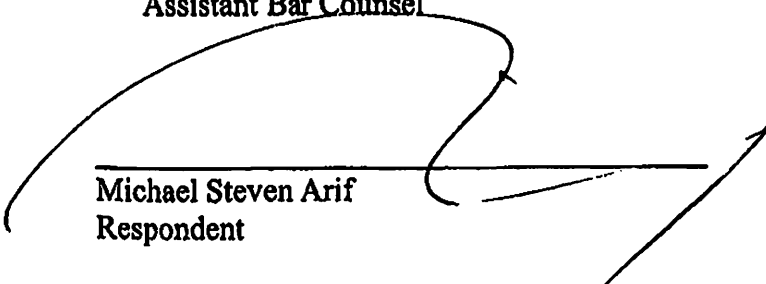
If, however, any of the terms and conditions is not met by the deadlines imposed above, Respondent agrees that the Disciplinary Board shall impose the alternative sanction of revocation of his license to practice law in the Commonwealth of Virginia pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

Prior to having his license reinstated in Virginia, Respondent must comply with the requirements set forth in the Rules of Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-25.D.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9.E of the Rules.

THE VIRGINIA STATE BAR

By: 
Laura Ann Booberg
Assistant Bar Counsel


Michael Steven Arif
Respondent


Paul Dimitri Georgiadis
Respondent's Counsel