

The Respondent must comply with the requirements of Part 6, 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 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 immediately and in no event later than 14 days of the effective date of the Suspension, and make such arrangements as are required herein as soon as is practicable and in no event later than 45 days of the effective date of the Suspension. The Respondent shall also furnish proof to the Clerk of the Disciplinary System of the Virginia State Bar within 60 days of the effective date of the Suspension that such notices have been timely given and such arrangements have been 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. The Board shall decide all issues concerning the adequacy of the notice and arrangements required herein. The burden of proof shall be on the Respondent to show compliance. If the Respondent fails to show compliance, the Board may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of subparagraph 13-29.

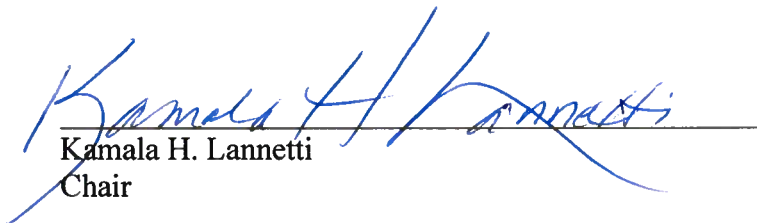
The Clerk of the Disciplinary System shall assess costs pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules.

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 11709 Leesborough Circle, Silver Spring, MD 20902, and a

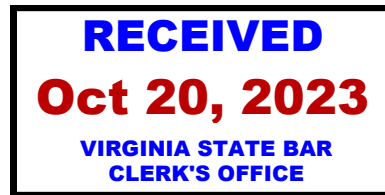
copy by electronic mail to Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel.

Enter this Order this 25th day of October, 2023

VIRGINIA STATE BAR DISCIPLINARY BOARD



Kamala H. Lannetti
Chair



VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTERS OF
DUNCAN KENNER BRENT

VS
VS B Docket Nos. 23-052-126721,
23-052-128128

AGREED DISPOSITION
One-Year and One-Day Suspension With Terms

Pursuant to the Rules of Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel and Duncan Kenner Brent, Respondent, *pro se*, hereby enter into the following Agreed Disposition arising out of these matters.

I. STIPULATIONS OF FACT

1. Respondent was admitted to the Virginia State Bar (“VSB”) in 1988. At all relevant times, Respondent was a member of the VSB. However, as set forth below, Respondent’s license to practice law in Virginia was administratively suspended on January 10, 2023 for failure to respond to a subpoena *duces tecum* from the VSB. Respondent’s license remains suspended as of the date of this agreed disposition.

VS B Docket No. 23-052-126721 (Complainant Felecia Parks)

2. On August 17, 2012, Complainant Felecia Parks and her two daughters were involved in a motor vehicle accident in Alexandria, Virginia.
3. Initially, Parks was represented by Respondent’s law partner Jacob Kamerow. On January 19, 2016, Kamerow filed suit in the Fairfax Circuit Court on behalf of Parks.¹ The complaint demanded \$500,000, plus costs.
4. According to Parks, Respondent assumed the representation of Parks and her daughters from Kamerow in 2016. However, according to court records, Respondent did not formally notice his appearance until February 1, 2018.
5. Pursuant to Virginia Code § 8.01-275.1, service of process is timely if (1) it is completed within 12 months of commencement of the action; or (2) it is completed more than 12

¹ Kamerow had previously filed and then nonsuited a lawsuit on behalf of Parks.

months after commencement of the action, but the court makes a finding “that the plaintiff exercised due diligence to have timely service made on the defendant.”

6. The defendant was not served within 12 months of commencement of the action.
7. On June 5, 2017, Parks texted Respondent to follow up on the status of her case. Respondent did not reply.
8. On June 28 and 29, 2017, Parks again texted Respondent to check in as to the outcome of the case. Respondent did not reply.
9. On August 17, 2017, Respondent filed a warrant in debt on behalf of Parks against State Farm Mutual Automobile Insurance (“State Farm”) for Parks’s medical payments. Respondent nonsuited the case.
10. On August 31 and September 1, 2017, Parks again texted Respondent to ask the status of her case. Respondent did not reply.
11. On September 12, 2017, Parks texted Respondent “I have been leaving voice messages an [sic] Text messages, with no response. Can you provide me an updated status of my cases[?]” Respondent responded, “Sorry Felecia Jack is sick so I’ve been covering his cases I will call you tomorrow morning in court today.”
12. On September 14, 2017, Parks spoke with Respondent. After their conversation, Parks texted Respondent her email address and asked him to send her an email about the status of both of her cases.
13. On October 8, 2017, Parks texted Respondent that she had not received the requested email.
14. On October 18, 2017, Parks texted Respondent that she “would like to receive the information about my cases today.” On October 25, 2017, Parks texted again, “Duncan email me the info.”
15. In February 2018, Respondent provided an update on the cases and disclosed that Kamerow passed away.
16. On March 13, March 14, March 28, April 6, April 9, and May 8, 2018, Parks texted Respondent requesting information. Respondent did not respond until May 14, 2018, when he said he “had surgery and am just getting back on my feet[.]”
17. On April 16, 2018, Respondent re-filed Parks’s case against State Farm. The Fairfax General District Court’s online system identified the “judgment” as “Not Found/Unserved.”

18. On August 19, 2018, the Fairfax Circuit Court entered a default judgment against the defendant on behalf of Parks.
19. On September 17, 2018, the Fairfax Circuit Court entered an order amending the defendant's address in Parks's lawsuit. The Court identified the August 19, 2018 order of default and said it was entered despite the absence of a finding of good cause under Va. Code § 8.01-275.1. The Court ruled that the case "should be set for a hearing on damages, for an express finding of good cause."
20. On September 20, 2018, the Fairfax Circuit Court entered an order scheduling a hearing on damages for December 2, 2018.
21. On December 7, 2018, the Fairfax Circuit Court considered Parks's motion for an *ex parte* proof hearing. The Fairfax Circuit Court entered an order re-setting the proof hearing for January 25, 2019. The order stated, "Plaintiff's witness is unavailable."
22. On December 18, 2018, the Fairfax Circuit Court convened for a scheduling conference, which was continued to February 26, 2019.
23. On February 26, 2019, the Fairfax Circuit Court entered an order allowing a second nonsuit. The order stated that the plaintiff had obtained service on the defendant and entry of default but was unable to complete an *ex parte* proof hearing due to health issues of his client and counsel's son. The order stated the plaintiff would refile the case.
24. Pursuant to Virginia Code § 8.01-229.E.3, the statute of limitations for Parks's action was tolled for six months after entry of the nonsuit order.
25. Respondent did not refile the case in a timely manner.
26. On August 26, 2022, Parks filed a bar complaint against Respondent. Parks represented that she filed the bar complaint because Respondent had stopped responding to her messages.
27. On August 30, 2022, bar counsel wrote a letter to Respondent enclosing a copy of Parks's complaint and requesting that Respondent submit a written answer within 21 days. Bar counsel's letter informed Respondent that he has "a duty to comply with the bar's lawful demands for information not protected from disclosure by Rule 1.6, which governs confidentiality of information."
28. Respondent did not respond to the bar complaint.
29. On October 4, 2022, the bar served a subpoena *duces tecum* on Respondent. The subpoena requested Respondent's entire file for Parks and her two daughters. A response was requested by October 28, 2022. Respondent did not submit a timely response. On November 2, 2022, bar counsel wrote to Respondent to advise him that if the bar did not

receive a response by November 9, 2022, it would file a Notice of Noncompliance with the VSB Disciplinary Board (“the Board”). Respondent still did not respond.

30. On December 27, 2022, bar counsel filed a Notice of Noncompliance regarding Respondent’s failure to comply with the subpoena. Respondent was advised that if he did not petition the Board to withhold a suspension within 10 days, he would be suspended. Respondent did not respond to the Notice of Noncompliance in any way.
31. On January 10, 2023, the Board entered an order suspending Respondent’s license until he complied with the subpoena.
32. On March 29, 2023, VSB Investigator Robert Graves emailed Respondent to attempt to schedule an interview. Respondent did not reply.
33. On March 31, 2023, Investigator Graves traveled to Respondent’s Alexandria, Virginia office twice to attempt to locate Respondent. Investigator Graves knocked on the locked office door, but no one answered. That same day, Investigator Graves also left a voicemail for Respondent and requested a return call, but Respondent did not return the call.
34. On April 3, 2023, Investigator Graves again visited Respondent’s Alexandria office to attempt to locate him. Investigator Graves again knocked on the locked office door, but no one answered.
35. On April 4, 2023, Investigator Graves sent a certified letter to Respondent’s address of record and his Alexandria office requesting that Respondent call or email him. Respondent did not respond.

Rules Violated: 1.1 (Competence); 1.3(a) (Diligence); 1.4(a), (c) (Communication); 8.1(c), (d) (Bar Admission and Disciplinary Matters).

VSB Docket No. 23-052-128128 (Complainant Makda Getachew)

36. Makda Getachew, a chiropractor, treated four patients whom Respondent represented in personal injury cases.
37. Between September 2018 and July 2019, Respondent signed a “Doctor’s Lien” for Getachew for each of the four cases. By signing this document, Respondent agreed “to observe all of the terms and conditions of the above lien” and “to withhold such sums from any settlement, judgment or verdict as may be necessary to adequately protect the said doctor named above.”
38. On April 22, 2019, Respondent faxed Getachew a letter acknowledging that client T.B., for whom Respondent had signed a Doctor’s Lien on October 17, 2018, owed Getachew \$3,896 in medical expenses. Respondent said that the insurance carrier had offered an

- \$8,000 settlement and asked Getachew to reduce her bill to \$2,727.20 as payment in full. Getachew signed Respondent's proposal and returned it to him.
39. Although Respondent asserted that he sent Getachew a check for the negotiated amount, Getachew did not receive the \$2,727.20 from Respondent.
 40. Getachew followed up with Respondent regarding the T.B. bill on March 15, 2020, September 22, 2020, May 13, 2021, and June 8, 2021, but Respondent did not reply.
 41. T.B. advised Getachew that her case had settled in 2019 and that T.B. had received her portion of the settlement.
 42. Getachew sent bills for her services to T.B., but T.B. did not pay them.
 43. On January 30, 2023, Getachew filed a bar complaint against Respondent alleging that Respondent had failed to satisfy any of the liens for the four clients she identified, including T.B.
 44. On February 2, 2023, bar counsel wrote a letter to Respondent enclosing a copy of Getachew's complaint and requesting that Respondent submit a written answer within 21 days. Bar counsel's letter informed Respondent that he has "a duty to comply with the bar's lawful demands for information not protected from disclosure by Rule 1.6."
 45. Respondent did not respond to the bar complaint.
 46. On February 16, 2023, the bar served a subpoena *duces tecum* on Respondent. The subpoena requested documents regarding the disbursement of funds for the four clients that Getachew identified. A response was requested by March 13, 2023. Respondent did not submit a timely response. On March 16, 2023, bar counsel wrote to Respondent to advise him that if the bar did not receive a response by March 24, 2023, the VSB would file a Notice of Noncompliance with the VSB Disciplinary Board. Respondent still did not respond.
 47. On March 20, 2023, Investigator Graves emailed Respondent regarding the pending subpoena *duces tecum*. Respondent did not respond.
 48. On March 29, 2023, bar counsel filed a Notice of Noncompliance regarding Respondent's failure to comply with the subpoena. Respondent was advised that if he did not petition the Board to withhold a suspension within 10 days, he would be suspended. Respondent did not respond to the Notice of Noncompliance in any way.
 49. On March 29, 2023, Investigator Graves emailed Respondent to request an interview. Respondent did not respond.

50. On March 31, 2023, Investigator Graves traveled to Respondent's Alexandria, Virginia office twice to attempt to locate Respondent. Investigator Graves knocked on the locked office door, but no one answered. That same day, Investigator Graves also left a voicemail for Respondent and requested a return call, but Respondent did not return the call.
51. On April 3, 2023, Investigator Graves again visited Respondent's Alexandria office to attempt to locate him. Investigator Graves again knocked on the locked office door, but no one answered.
52. On April 4, 2023, Investigator Graves sent a certified letter to Respondent's address of record and his Alexandria office requesting that Respondent call or email him. Respondent did not respond.
53. On April 13, 2023, the Board entered an order suspending Respondent's license to practice law in Virginia until he complied with the subpoena *duces tecum*.
54. As of the date of this Agreed Disposition, Respondent has not complied with the subpoena and remains suspended.

Rules Violated: 1.15(b)(4) (Safekeeping Property); 8.1(c), (d) (Bar Admission and Disciplinary Matters).

II. NATURE OF MISCONDUCT

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

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

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.

...

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

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[.]

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:

...

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

(d) obstruct a lawful investigation by an admissions or disciplinary authority.

III. PROPOSED DISPOSITION

Accordingly, bar counsel and Respondent tender to the Disciplinary Board for its approval the Agreed Disposition of a One-Year and One-Day Suspension with Terms 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:

Within 30 days of the date of any order approving this Agreed Disposition, Respondent must produce to bar counsel complete trust accounting records, including canceled checks, receipts and disbursements journals, client ledgers, evidence of reconciliations, and bank statements, from January 1, 2020 to the present. To the extent these records do not already include all trust accounting records pertaining to clients Felicia Parks and the four patients of Dr. Getachew represented by Respondent, as identified above, Respondent must produce trust accounting records pertaining to those clients as well.

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 a suspension of an additional three years pursuant to the Rules of Supreme Court of Virginia, 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, Party 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.

Agreed:



Elizabeth K. Shoenfeld
Senior Assistant Bar Counsel

