

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF

VSB DOCKET NO.  
22-070-125132

CHARLES ALLEN BUTLER, JR.

**MEMORANDUM ORDER OF PUBLIC REPREMAND WITH TERMS**

**THIS MATTER** came on to be heard on April 28, 2023, before a panel of the Disciplinary Board consisting of John A. C. Keith Chair Designate, Adam M. Carroll, Donita M. King, Stephanie G. Cox, and Elisabeth Martingayle, Lay member. The Virginia State Bar (the "Bar") was represented by Joseph M. Caturano, Jr., Assistant Bar Counsel. Respondent Charles Allen Butler, Jr., appeared in person and was represented by Paul D. Georgiadis, Esquire. 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. Jennifer L. Hairfield, court reporter, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

All legal notices of the date and place of this hearing were timely sent by the Clerk of the Disciplinary System ("Clerk") in the manner prescribed by the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18.

The matter came before the Board on the District Committee Determination for Certification by the Seventh District Subcommittee pursuant to Part 6, Section IV, Paragraph 13-18 of the Rules of the Supreme Court of Virginia involving misconduct charges against the Respondent. Prior to the proceedings, the parties filed Stipulations of Fact and Misconduct with the Clerk of the Disciplinary System; and, at the final Pretrial Conference, VSB Exhibits 1 through 13 were admitted into evidence by the Chair, without objection from the Respondent.

## **I. STIPULATIONS OF FACT AND MISCONDUCT**

The parties stipulated to the facts supporting the allegations of misconduct and the Board makes the following findings by clear and convincing evidence based on these stipulations:

1. Respondent has been a member of the Bar since 1990, and he was an active member of the Bar at all times relevant herein.
2. In late 2020 or early 2021, Respondent employed Emily Mayle (“Mayle”) as a part-time receptionist and secretary. In February 2021, Respondent assisted Mayle in obtaining her Notary Public certification and seal. Mayle provided notary services for Respondent during the course of her employment with Respondent.
3. In June 2021, Stefanie Short (“Short”) hired Respondent to initiate a divorce against her spouse. Short’s mother, Tammy Cubbage (“Cubbage”), paid Respondent \$1,000.00 to handle the divorce, which was uncontested.
4. On July 9, 2021, Respondent filed a Bill of Complaint initiating the divorce in Page County Circuit Court on behalf of Short. The case was styled *Stefanie Renee Short v. Jessica Ann Back* and was assigned Case No. CL21-426 (“divorce case”).
5. In August 2021, Mayle left her job with Respondent. Mayle left her notary stamp on her desk in Respondent’s office.
6. Subsequently, Respondent drafted Affidavits for Short and Cubbage to sign under oath as evidence in the divorce case pending in the Page County Circuit Court.
7. On or about February 11, 2022, Respondent scheduled a meeting with Short and Cubbage to sign the Affidavits. Respondent, Short, and Cubbage were the only individuals present when the Affidavits were executed. Respondent asserts he placed Short and Cubbage under oath prior to the signing of the Affidavits, but the notary portion of the Affidavits were not signed in the present of Short and Cubbage.
8. Respondent later used the notary seal issued to Mayle on the Affidavits and signed Mayle’s name to both Affidavits.
9. On or about February 15, 2022, Respondent filed the Affidavits with Page County Circuit

Court in the case styled *Stefanie Renee Short v. Jessica Ann Back*.

10. Employees in the Page County Circuit Court Clerk's Office determined the notary signatures of the Affidavits did not match Mayle's signature. After contacting Mayle and confirming that she did not sign and notarize the Affidavits, they communicated the information to the Honorable Clark A. Ritchie, the presiding judge, and the Commonwealth Attorney.

11. Due to concerns about the validity of the Affidavits, the Court took no action on the divorce case.

12. On March 2, 2022, the Bar received a complaint about the two notarized Affidavits filed by Respondent with the Court in the case styled *Stefanie Renee Short v. Jessica Ann Back*.

13. On March 22, 2022, Respondent re-executed the Affidavits of Short and Cubbage before Notary Public Davide W. Cloude. On March 25, 2022, Respondent filed the new Affidavits with the Court in the divorce case.

14. On September 13, 2022, Clarissa T. Berry, Commonwealth Attorney for Madison County, acting as Special Prosecutor for Page County Circuit Court, filed the following criminal charges against Respondent: Felony Forgery of Public Record under Va. Code §18.2-168, Felony Uttering of Public Record under Va. Code §18.2-168, and Felony Forgery of a Public Seal pursuant to Va. Code §18-2-169. All charges are Class 4 Felonies.

15. On October 14, 2022, Bar Investigator David Jackson interviewed Respondent in the presence of his attorney. When shown the Affidavits containing the notary seal and signature of Mayle in the *Short* case, Respondent acknowledged signing/writing Mayle's name on the Affidavit and using the stamp issued to Mayle. Respondent also acknowledged filing the Affidavits with the Court.

16. On March 20, 2023, the Page County Circuit Court entered a plea agreement with Respondent in the criminal case whereby it made a finding of guilt but deferred further proceedings for a period of one (1) year, at which time, after fulfillment of certain terms, the Court will dismiss Counts 1 and 2 and reduce Count 3, Felony Forgery of a Public Seal, to misdemeanor identity theft in violation of Va. Code §18.2-186.3.

## **II. NATURE OF MISCONDUCT**

The parties stipulated to, and the Board so finds by clear and convincing evidence that the Respondent's conduct constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **Rule 3.3 Candor Toward the Tribunal**

(a) A Lawyer shall not knowingly:

(4) offer evidence that the lawyer knows to be false.

### **Rule 3.4 Fairness to Opposing Party and Counsel**

A Lawyer shall not:

(c ) Falsify evidence [.]

### **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. IMPOSITION OF SANCTION**

Thereafter, the Board received further evidence and argument in aggravation and mitigation from the Bar and Respondent, including Respondent's prior disciplinary record.

The Bar called the following witnesses: Emily P. Mayle, Respondent's former legal assistant and notary, Stefanie Short, Respondent's client, and David Jackson, the Bar Investigator.

Respondent's exhibits 1-4, collectively, were admitted into evidence at the sanctions phase. These included letters of apology from the Respondent to the Honorable Clarke Ritchie, Judge of Page County Circuit Court, to the Page County Circuit Court Clerk, and to Respondent's former assistant, Ms. Mayle. Respondent's exhibits also included 10 letters from attorneys and community members who attested to the Respondent's good character and

reputation in the community for honesty and documentation that Judge Ritchie, who filed the Bar Complaint, has appointed the Respondent as counsel on at least 19 cases since the discovery of his misconduct. Respondent called as character witnesses Jeffrey Slater, Robert Janney, Esquire, and Jenna Hill, Respondent's current legal assistant. Respondent testified on his own behalf.

The Board recessed to deliberate what sanction to impose upon its findings of misconduct by Respondent. After due deliberation, the Board reconvened to announce the sanction imposed.

The Board finds that Respondent's misconduct violated his duty to the legal system, the public, and the profession and that the misconduct was intentional. The Board finds that there was potential for injury from Respondent's misconduct and that there was no actual injury to the client.

The Board considered in aggravation the Respondent's substantial experience in the practice of law and that his conduct was illegal. In mitigation, the Board considered the Respondent's absence of a prior disciplinary record, absence of a selfish motive, timely good faith efforts to rectify the consequences of his misconduct, full and free disclosure and cooperation toward the disciplinary proceedings and evidence of his good character and reputation, his genuine remorse, and other sanctions and penalties imposed through the criminal prosecution.

Accordingly, it is ORDERED that the Respondent, Charles Allen Butler, Jr., will receive a Public Reprimand with Terms. The terms are that Respondent (i) will comply with all of the terms set forth in his March 20, 2023, Plea Agreement entered into in the Page County Circuit Court; (ii) attend six (6) additional hours of Ethics Continuing Legal Education credits within the next 12 months, beyond his minimum CLE requirements; and (iii) have no further violations of the Rules of Professional Conduct for the next twelve (12) months. Respondent shall certify in writing to Bar Counsel his compliance with all terms within fifteen (15) days of completion. This sanction is effective April 28, 2023.

The alternate sanction imposed if Respondent fails to comply with the above stated terms is a six (6) month suspension of his license to practice law.

It is further ORDERED that pursuant to Part 6, Section IV, Paragraph 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 the Respondent by certified mail, return receipt requested, and by regular first-class mail and to his address of record with the Virginia State Bar, being 232 West Main Street, Luray, Virginia 22835, and a copy by electronic mail to Paul D. Georgiadis, Esquire, PDGLex@PDGLex.com, Respondent's Counsel, and to Joseph M. Caturano, Jr., Assistant Bar Counsel.

ENTERED this 27<sup>th</sup> day of June, 2023.

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
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John A. C. Keith, Chair Designate