

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE COUNTY OF HANOVER**

**VIRGINIA STATE BAR EX REL  
SIXTH DISTRICT COMMITTEE  
VSB Docket No. 22-060-124491**

**Complainant,**

**v.**

**Case No. CL22003892-00**

**BRUCE PATRICK GANEY,**

**Respondent.**

**FINAL JUDGMENT MEMORANDUM ORDER**

THIS MATTER was heard on March 20, 2023, by a Three-Judge Circuit Court duly impaneled pursuant to Section 54.1-3935 of the Code of Virginia (1950) as amended, consisting of the Honorable Jayne A. Pemberton, Judge of the 12<sup>th</sup> Judicial Circuit; the Honorable William T. Newman, Jr., Chief Judge of the 17<sup>th</sup> Judicial Circuit; and the Honorable Rondelle D. Herman, Judge of the 14<sup>th</sup> Judicial Circuit and designated Chief Judge (“Chief Judge”) of the Three-Judge Circuit Court (collectively “the Court”).

Bar Counsel Seth T. Shelley represented the Virginia State Bar (“VSB”). Respondent, having received proper notice of the proceeding, appeared with his counsel, Robert J. Allen, Esq.

The Clerk swore the court reporter, and each member of the Court verified that he or she had no personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in this matter.

WHEREUPON a hearing was conducted upon the Rule to Show Cause issued against Respondent. The Rule directed Respondent to appear and to show cause why his license to practice law in the Commonwealth of Virginia should not be suspended, revoked, or otherwise

sanctioned by reason of the allegations of ethical misconduct set forth in the Certification issued by a subcommittee of the Sixth District Committee of the VSB.

#### MISCONDUCT PHASE

The Court admitted previously filed and labeled VSB Exhibits 1-8 without objection by Respondent as VSB Exhibit 1, collectively.

Both parties made opening statements.

The Court received the testimony of witnesses Steven Bradt and Investigator O. Michael Powell for the VSB.

The VSB then rested. Respondent moved to strike the VSB's evidence on all allegations of the Certification. After hearing argument from the VSB and Respondent, the Court deliberated and denied the Motion to Strike.

Respondent testified in his case. Respondent did not call any other witnesses. The Court admitted Respondent's Exhibits 1-2.

The VSB called Mr. Bradt as a rebuttal witness.

Both parties made closing statements.

Upon due deliberation and in consideration of the parties' exhibits and witness testimony, the Court made the following findings of fact by clear and convincing evidence:

#### FINDINGS OF FACT

1. Respondent was admitted to practice law in Virginia in 1978 and at all relevant times was licensed to practice in the Commonwealth of Virginia. VSB Exh. 1 (prefiled as VSB Exh. 3) (Affidavit of DaVida M. Davis, Director of Regulatory Compliance).
2. Steven Bradt hired Respondent in late 2020 to represent him in a property dispute with a neighbor. A carport was located on Mr. Bradt's property, and he believed the carport did

not encroach upon any portion of his neighbor's property. The adjoining property owners, (the "Britts"), believed the carport was on their property. In addition to the carport issue, Mr. Bradt had concerns about costs associated with maintaining a right of way. VSB Exh. 1 (prefiled as VSB Exh. 4) (Report of Investigation). Testimony of Mr. Bradt.

3. Mr. Bradt paid Respondent an advanced legal fee in the amount of \$2,000.00 in December 2020. Respondent deposited the fee in his trust account. Respondent's Exh. 1. Testimony of Mr. Bradt and Respondent.
4. Respondent performed a title search and reviewed a recorded Easement Maintenance Deed. Respondent determined that there was no recorded plat or survey that showed Mr. Bradt's carport on the neighboring property. The Deed indicated that the cost of maintaining the right of way should be split between Mr. Bradt and the Britts. Respondent advised Mr. Bradt against litigation and suggested that the parties negotiate a settlement. VSB Exh. 1 (prefiled as VSB Exh. 4) (Report of Investigation) and VSB Exh. 1 (prefiled as VSB Exh. 6) (Response to the Bar Complaint filed by Respondent). Testimony of Respondent.
5. On April 8, 2021, Respondent sent a letter to Mr. Bradt indicating that Respondent had spoken to counsel for the Britts about a potential settlement. Respondent advised Mr. Bradt to "wait and see" what offer was proposed by the Britts. Respondent also discussed the matter and his advice by telephone with Mr. Bradt that day. VSB Exh. 1 (prefiled as VSB Exh. 6) (Response to the Bar Complaint filed by Respondent). Testimony of Mr. Bradt and Respondent.
6. From April 27, 2021 through September 28, 2021, Mr. Bradt called and texted Respondent's cell phone and called Respondent's office phone on 14 occasions. Mr.

Bradt left voicemails requesting a return call. Mr. Bradt also emailed Respondent. During this time, Mr. Bradt drove to Respondent's office multiple times to locate him, but no one was present at the office. Respondent did not respond to Mr. Bradt's communications. VSB Exh. 1 (prefiled as VSB Exh. 4) (Report of Investigation) and VSB Exh. 1 (prefiled as VSB Exh. 8) (Cell phone records provided by Mr. Bradt).

7. Mr. Bradt filed a Bar Complaint on December 14, 2021, asserting that he had attempted to contact Respondent after April 8, 2021 but had not received any communication. Although Respondent emailed Mr. Bradt his written response to the Bar Complaint in January 2022, Respondent did not communicate with Mr. Bradt about the land dispute with the Britts, the matter he had been retained. VSB Exh. 1 (prefiled as VSB Exh. 5) (Bar Complaint). Testimony of Mr. Bradt and Respondent.
8. O. Michael Powell, VSB Investigator, interviewed Respondent in August 2022. Respondent said he told Mr. Bradt early in the representation to make an appointment if Respondent did not return phone calls. Investigator Powell showed Respondent the cell phone documentation and advised him that Mr. Bradt said Respondent did not return any of the calls or texts. Respondent replied, "that could be the case." At the close of the interview, Respondent told Investigator Powell he would contact Mr. Bradt. Respondent told Investigator Powell that he would provide documentation to the VSB showing how the advanced fee paid by Mr. Bradt was earned but failed to do so. VSB Exh. 1 (prefiled as VSB Exh. 4) (Report of Investigation). Testimony of Investigator Powell.
9. Mr. Bradt sold his home in August 2022 and moved out of state. Testimony of Mr. Bradt.

10. Respondent admitted he did not call or discuss the matter with Mr. Bradt after April 8, 2021. Respondent stated he learned in August 2022 that Mr. Bradt sold the property and, therefore, there was no reason to speak to Mr. Bradt about the land dispute issues. Respondent spoke to counsel for the Britts at least once after April 8, 2021, but did not communicate that information to Mr. Bradt. Testimony of Respondent.
11. Mr. Bradt did not receive any invoice, billing statement, or documentation indicating how the advanced fee was earned by Respondent. Testimony of Mr. Bradt.

**NATURE OF MISCONDUCT**

Upon consideration of the exhibits, witnesses' testimony, arguments of counsel, and the entirety of the record, the Court finds that the clear and convincing evidence establishes that such conduct by Respondent violated the following provisions of the Rules of Professional Conduct as follows:

**RULE 1.3 Diligence**

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

*By failing to make any effort to negotiate a settlement on behalf of Mr. Bradt for a period of over six (6) months, by failing to return Mr. Bradt's 14 phone calls and text messages, and by failing to contact Mr. Bradt after April 6, 2021, Respondent violated Rule 1.3(a).*

**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.

*By failing to return Mr. Bradt's 14 calls and text messages and by failing to communicate with Mr. Bradt after April 6, 2021, Respondent violated Rule 1.4 (a).*

**RULE 1.15 Safekeeping Property**

\* \* \*

- (b) Specific Duties. A lawyer shall:

\* \* \*

- (3) maintain complete records of all funds, securities, and other properties

of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them[.]

*By failing to provide Mr. Bradt any billing statements or accountings showing how Respondent earned the advanced legal fee, Respondent violated Rule 1.15(b)(3).*

#### SANCTIONS PHASE

The Court then proceeded to the sanctions phase of the proceeding.

The VSB introduced a certification of Respondent's disciplinary record. The Court admitted the Certification as VSB Exhibit 2.

Counsel for the VSB and the Respondent presented argument regarding the sanctions to be imposed on Respondent for the misconduct found, and the Court recessed to deliberate.

#### DETERMINATION

After due consideration of the evidence as to mitigation and aggravation and argument of counsel, including VSB Exhibit 2 which detailed Respondent's disciplinary record consisting of 2 Private Admonitions, 2 Private Reprimands, and 4 Public Reprimands and a demonstrated pattern of misconduct regarding violations of RPC 1.3 and 1.4, the Court reconvened to announce its sanction of Suspension (90 days) of Respondent's license, effective May 20, 2023.

It is further ORDERED that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Respondent shall forthwith give notice by certified mail, return receipt requested, 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. Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. 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 practicable and in no event later than 45 days of the effective

date of the Suspension. Respondent shall also furnish proof to the VSB 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 Respondent is not handling any client matters on the effective date of the Suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System of the VSB. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the VSB Disciplinary Board.

It is further ORDERED that the Clerk shall send a copy teste of this Final Judgment Memorandum Order to Respondent, Bruce Patrick Ganey, by certified mail, return receipt requested, to 11159 Air Park Road, Ste.1, PO Box 6006, Ashland, VA 23005, his address of record with the VSB; to Respondent's counsel, Robert J. Allen, ThorsenAllen, LLP, Suite 201, 5413 Patterson Ave., Richmond, VA 23226; to the Honorable Joanne Fronfelter, Clerk of the Disciplinary System, Virginia State Bar, 1111 E. Main Street, Suite 700, Richmond, VA 23219; and to Seth T. Shelley, Assistant Bar Counsel, Virginia State Bar, 1111 E. Main Street, Suite 700, Richmond, VA 23219.

The hearing was recorded by Beverly Lukowsky of Chandler and Halasz Stenographic Reporters, PO Box 9348, Richmond, VA 23227, telephone 804-730-1222.

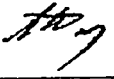
The Clerk of the Disciplinary System shall assess costs pursuant to Part Six, Section IV, Paragraph 13-9.E of the Rules.

ENTERED: 3/30/23

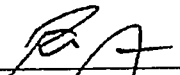
  
The Honorable Rondelle D. Herman  
Chief Judge Designate

I ask for this:

VIRGINIA STATE BAR

By:   
Seth T. Shelley, Assistant Bar Counsel  
VSB No. 75413  
Virginia State Bar  
1111 East Main Street, Suite 700  
Richmond, VA 23219-3565  
(804) 775-0575  
[sshelley@vsb.org](mailto:sshelley@vsb.org)

SEEN AND OBJECTED TO:

By:   
Robert J. Allen  
VSB No. 65214  
ThorsenAllen, LLP  
Suite 201  
5413 Patterson Ave.  
Richmond, VA 23226  
(804) 918-6143  
[rallen@thorsenallen.com](mailto:rallen@thorsenallen.com)