

VIRGINIA:

BEFORE THE FIFTH DISTRICT, SECTION III SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
Mark Joseph Madigan

VSB Docket No. 21-053-121004

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On October 26, 2021 a meeting was held in this matter before a duly convened Fifth District Subcommittee consisting of Kiah DuShay Spinks, Member; Dawn Elizabeth Boyce, Chair Presiding; and Barbara W. Hutto, Lay Member. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand without Terms pursuant to Part 6, § IV, ¶ 13-15.B.4. of the Rules of the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, and Mark Joseph Madigan, Respondent, *pro se*.

WHEREFORE, the Fifth District, Section III Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand without Terms:

I. FINDINGS OF FACT

1. On November 8, 2017, Respondent qualified as the executor of the estate of Kai Luo. On March 8, 2018, Respondent timely filed an inventory listing the total asset value at \$2,325,509.12. This total included several brokerage accounts and checking accounts that were payable on death and should not have been included in the estate inventory. More than a year later, on March 22, 2019, Respondent amended the inventory and eliminated several of these accounts, which reduced the total estate value to \$870,223.96.
2. Respondent overpaid the probate tax. He attempted to seek a refund, but a refund had to be sought within three years of Luo's death, and he filed the request about a week late. Respondent advised the Fairfax County Commissioner of Accounts ("the Commissioner") of this and personally reimbursed the estate for the refund the estate should have received.

3. Respondent's First Account was due on March 8, 2019, and the day it was due Respondent requested an extension. He received an extension until May 10, 2019, but he did not meet that deadline either. After Respondent did not respond to a reminder letter, the Commissioner issued a summons on June 25, 2019.
4. On October 9, 2019, Respondent filed the First Account. On January 6, 2020, Auditor Hennie Abalo-Kitchen wrote to Respondent to request corrections and additional documentation, which included providing receipts for financial transactions and account statements. On February 10, 2020, Respondent complied with the request. On February 13, 2020, Ms. Abalo-Kitchen wrote back to Respondent to request that he pay the hearing fees due. Respondent complied. On February 20, 2020, the First Account was approved.
5. The Second Account was due on March 9, 2020. Respondent did not file it on time. On March 25, 2020, the Commissioner sent a reminder letter, but Respondent still did not file the Second Account. On May 26, 2020, the Commissioner issued a summons to Respondent. Respondent asserted that he never received the summons, and he did not respond to it.
6. On October 9, 2020, the Commissioner moved for a Rule to Show Cause based on Respondent's failure to respond to the summons or file the Second Account. The Commissioner simultaneously filed a bar complaint.
7. On October 14, 2020, the Court ordered Respondent to appear on November 20, 2020.
8. On October 27, 2020, the Commissioner issued a report, which reflected that counsel for the estate's sole beneficiary, expressed the following concerns:
 - Respondent had failed to respond to multiple requests for information from the beneficiary's counsel.
 - The surety bond should be adjusted to the estate's reduced value.
 - The probate tax should be adjusted to reflect the estate's adjusted value.
 - Two checks to the estate needed to be re-issued.
 - Certain stock shares should be liquidated.
 - The beneficiary required receipts for two \$50,000 distributions.
9. Although Respondent reduced the bond in August 2019, he had not addressed any of the other concerns prior to the hearing. The Commissioner also noted that her office had contacted Respondent multiple times with no response. The Commissioner said that if Respondent did not show evidence of progress, he should be removed as administrator.
10. On November 4, 2020, Respondent responded to the bar complaint. He said that he was "finalizing the overdue accounting and will have it filed in the next couple of days."

11. On November 16, 2020, Respondent filed the Second Account. On November 17, 2020, Respondent submitted additional documentation to the Commissioner.
12. On November 18 and 19, 2020, Ms. Abalo-Kitchen wrote to Respondent regarding the Second Account. Ms. Abalo-Kitchen noted that the payment was incomplete and requested additional documentation.
13. On November 20, 2020, the Commissioner filed a petition to remove fiduciary and forfeit bond based on Respondent's failure to respond to the summons and continued failure to file a timely, proper Second Account.
14. On December 18, 2020, Ms. Abalo-Kitchen sent Respondent another deficiency letter regarding the Second Account. This letter requested additional documentation regarding the estate of the decedent's father. Respondent submitted the requested documentation on December 23, 2020 and January 4 and 7, 2021.
15. On January 7, 2021, the Commissioner approved the Second Account.
16. On February 12, 2021, Respondent filed the Third Account. Although Ms. Abalo-Kitchen again wrote to Respondent to ask him to address deficiencies, these issues were resolved and the Third Account was approved on May 17, 2021.
17. On May 21, 2021, the Court dismissed the Show Cause issued against Respondent because he "addressed the required filings with the commissioner to the satisfaction of the commissioner."
18. When asked about the delays, Respondent said that he encountered several complications because of the international nature of the estate. For example, the decedent worked for a Canadian company and the beneficiary lived in China.

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.

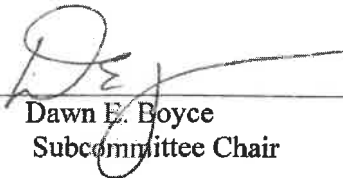
RULE 1.3 Diligence

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

III. PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand Without Terms and Mark Joseph Madigan is hereby so reprimanded. Pursuant to Part 6, § IV, ¶ 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

FIFTH DISTRICT, SECTION III
SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By: 
Dawn E. Boyce
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on 11/3/2021, a true and complete copy of the Subcommittee Determination (Public Reprimand Without Terms) was sent by certified mail to Mark Joseph Madigan, Respondent, at Madigan & Scott, 7880 Backlick Road #2, Springfield, VA 22150, Respondent's last address of record with the Virginia State Bar.



Elizabeth K. Shoenfeld
Senior Assistant Bar Counsel

VIRGINIA:

BEFORE THE FIFTH DISTRICT, SECTION III SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
MARK JOSEPH MADIGAN

VS B Docket No. 21-053-121004

AGREED DISPOSITION
PUBLIC REPRIMAND WITHOUT TERMS

Pursuant to the Rules of Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, and Mark Joseph Madigan, Respondent, *pro se*, hereby enter into the following agreed disposition arising out of this matter.

I. STIPULATIONS OF FACT

1. On November 8, 2017, Respondent qualified as the executor of the estate of Kai Luo. On March 8, 2018, Respondent timely filed an inventory listing the total asset value at \$2,325,509.12. This total included several brokerage accounts and checking accounts that were payable on death and should not have been included in the estate inventory. More than a year later, on March 22, 2019, Respondent amended the inventory and eliminated several of these accounts, which reduced the total estate value to \$870,223.96.
2. Respondent overpaid the probate tax. He attempted to seek a refund, but a refund had to be sought within three years of Luo's death, and he filed the request about a week late. Respondent advised the Fairfax County Commissioner of Accounts ("the Commissioner") of this and personally reimbursed the estate for the refund the estate should have received.
3. Respondent's First Account was due on March 8, 2019, and the day it was due Respondent requested an extension. He received an extension until May 10, 2019, but he did not meet that deadline either. After Respondent did not respond to a reminder letter, the Commissioner issued a summons on June 25, 2019.
4. On October 9, 2019, Respondent filed the First Account. On January 6, 2020, Auditor Hennie Abalo-Kitchen wrote to Respondent to request corrections and additional documentation, which included providing receipts for financial transactions and account statements. On February 10, 2020, Respondent complied with the request. On February 13, 2020, Ms. Abalo-Kitchen wrote back to Respondent to request that he pay the hearing fees due. Respondent complied. On February 20, 2020, the First Account was approved.

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6. On October 9, 2020, the Commissioner moved for a Rule to Show Cause based on Respondent's failure to respond to the summons or file the Second Account. The Commissioner simultaneously filed a bar complaint.
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8. On October 27, 2020, the Commissioner issued a report, which reflected that counsel for the estate's sole beneficiary, expressed the following concerns:
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 - The surety bond should be adjusted to the estate's reduced value.
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 - Two checks to the estate needed to be re-issued.
 - Certain stock shares should be liquidated.
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13. On November 20, 2020, the Commissioner filed a petition to remove fiduciary and forfeit bond based on Respondent's failure to respond to the summons and continued failure to file a timely, proper Second Account.

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18. When asked about the delays, Respondent said that he encountered several complications because of the international nature of the estate. For example, the decedent worked for a Canadian company and the beneficiary lived in China.

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.

III. PROPOSED DISPOSITION

Accordingly, bar counsel and Respondent tender to a subcommittee of the Fifth District, Section III Committee for its approval the agreed disposition of a Public Reprimand without Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Fifth District, Section III Committee.

If the agreed disposition is approved, the Clerk of the Disciplinary System shall assess costs.

Pursuant to Part 6, § IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

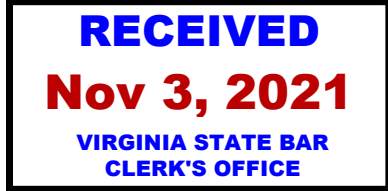
THE VIRGINIA STATE BAR



Elizabeth K. Shoenfeld
Senior Assistant Bar Counsel



Mark Joseph Madigan, Esquire
Respondent



VIRGINIA:

BEFORE THE FIFTH DISTRICT, SECTION III SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
Mark Joseph Madigan

VSB Docket No. 21-053-121538

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On October 26, 2021 a meeting was held in this matter before a duly convened Fifth District Subcommittee consisting of Kiah DuShay Spinks, Member; Dawn Elizabeth Boyce, Chair Presiding; and Barbara W. Hutto, Lay Member. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand without Terms pursuant to Part 6, § IV, ¶ 13-15.B.4 of the Rules of the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel; Mark Joseph Madigan, Respondent, and William Leonard Mitchell, II, Esquire, counsel for Respondent.

WHEREFORE, the Fifth District, Section III Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand without Terms:

I. FINDINGS OF FACT

1. Respondent was licensed to practice law in Virginia in 1997. At all relevant times, Respondent was a member of the Virginia State Bar ("VSB").
2. On November 8, 2017, Complainant Patrice Householder retained Respondent to represent her in her divorce.
3. Shortly thereafter, Ms. Householder told Respondent that her husband was the primary wage earner in the relationship and her financial circumstances were dire.
4. On December 19, 2017, Respondent filed a motion for *pendente lite* relief for Ms. Householder. However, Respondent did not set the matter for hearing or take other steps to pursue it.

5. On December 22, 2017, the parties exchanged discovery requests. That day, Respondent forwarded the discovery to Ms. Householder and asked her to provide responses by January 5, 2018.
6. On January 8, 2018, Ms. Householder emailed Respondent with information responding to the interrogatories and requests for production. The email enclosing her responses included several questions for Respondent. On January 9, 2018, Householder emailed Respondent and said that she was mailing additional documents to him, and that she had a few changes to the interrogatory responses that she was also sending.
7. Respondent told the VSB that he reviewed Ms. Householder's responses upon receipt, but he did not finalize the responses or serve them on opposing counsel.
8. On Wednesday, January 24, 2018, Tawnya Yetter, counsel for Ms. Householder's husband, emailed Respondent to request responses to the discovery that were due on January 16. She stated that if she did not receive them, she would file a motion to compel the next week and set it for February 9, 2018.
9. That same day, Respondent responded to Ms. Yetter: "I should have the discovery in your office on Friday. I need to get her in here to sign it." Respondent did not inform Ms. Householder of this exchange.
10. Respondent still did not serve discovery responses for Ms. Householder. On January 28, 2018, Ms. Yetter contacted Respondent again regarding the missing discovery responses. Respondent did not respond.
11. On January 29, 2018, Ms. Yetter filed a motion to compel because no discovery responses had been served. Respondent did not respond to the motion to compel. Respondent did not advise Ms. Householder that the motion had been filed.
12. On February 1, 2018, Ms. Householder wrote to Respondent: "I didn't hear anything back from you after delivering the Interrogatories/Document Production package and copies to you, so I assume that I did it correctly? You didn't instruct me to make any changes to what I wrote and provided, so I assume it was okay?" Ms. Householder also indicated that she was dropping off additional discovery materials and her thoughts on settlement.
13. On February 15, 2018, Ms. Yetter emailed Respondent to ask whether he would provide any discovery documents before the next day's motion. Respondent replied, "I certainly owe you the discovery. If you have a proposed order I would like the opportunity to review it before tomorrow." Later that day, Ms. Yetter's colleague Kira Merski forwarded a proposed order.
14. On February 16, 2018, the court entered the order granting the motion to compel, requiring Ms. Householder to provide full and complete answers to discovery by March 2, 2018 and to pay \$637.50 in attorney's fees by July 17, 2018 or seven days after entry of the final order. Respondent signed the order "seen and agreed." Respondent did not tell Ms. Householder about the order until two weeks after the order was entered.

15. On March 1, 2018, the day before the court-ordered discovery responses were due, at 4:39 p.m., Respondent emailed Ms. Householder to ask her to come into the office the next day. He said he needed to “discuss a few things” and “have you sign off on some pleadings.”
16. On March 2, 2018, Ms. Householder and Respondent met at Respondent’s office. Ms. Householder learned only then that Respondent had never set the *pendente lite* motion for hearing and had not responded to discovery or defended the motion to compel.
17. Respondent agreed to refund \$2,172.64 of Ms. Householder’s fee and to pay the discovery sanction. In a letter dated the same day, Respondent acknowledged that Ms. Householder had provided timely responses to the discovery and the “delay in responding was in no way the fault or responsibility of the client.” Ms. Householder then signed the discovery responses and Respondent delivered the responses to Ms. Yetter’s office.
18. That same day, Respondent issued a check in the amount of \$2,172.64 to Ms. Householder.
19. On March 12, 2018, Ms. Yetter wrote to Respondent and identified deficiencies in Ms. Householder’s discovery responses. Ms. Yetter said that she would file a motion for sanctions that Friday if the deficiencies were not resolved.
20. On March 13, 2018, Ms. Householder emailed Respondent to terminate his representation.
21. On March 15, 2018, Ms. Yetter filed a motion for sanctions. The motion requested an order deeming all objections waived and prohibiting Ms. Householder from using any information not disclosed by March 2, 2018, as well as awarding attorney’s fees.
22. Ms. Householder hired new counsel, who opposed the motion for sanctions. The court denied the motion to the extent it sought to preclude the introduction of evidence. However, the court expressly allowed the husband to re-raise the issue and reserved the matter of attorney’s fees for trial.

II. NATURE OF MISCONDUCT

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

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.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

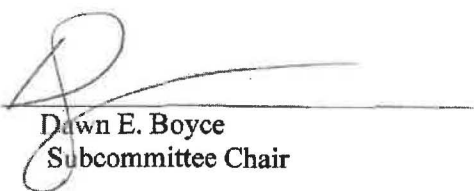
(e) Make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party.

III. PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand Without Terms and Mark Joseph Madigan is hereby so reprimanded. Pursuant to Part 6, § IV, ¶ 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

**FIFTH DISTRICT, SECTION III
SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

By: _____


Dawn E. Boyce
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on 11/3/2021, a true and complete copy of the Subcommittee Determination (Public Reprimand Without Terms) was sent by certified mail to Mark Joseph Madigan, Respondent, at Madigan & Scott, 7880 Backlick Road #2, Springfield, VA 22150, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to William Leonard Mitchell, II, counsel for Respondent, at Eccleston and Wolf, P.C., Suite 107, 10400 Eaton Place, Fairfax, VA 22030.



Elizabeth K. Shoenfeld
Senior Assistant Bar Counsel

VIRGINIA:

BEFORE THE FIFTH DISTRICT, SECTION III SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
MARK JOSEPH MADIGAN

VS B Docket No. 21-053-121538

AGREED DISPOSITION
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Pursuant to the Rules of Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, and Mark Joseph Madigan, Respondent, and William Leonard Mitchell, II, counsel for Respondent, hereby enter into the following agreed disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

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III. PROPOSED DISPOSITION

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Pursuant to Part 6, § IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

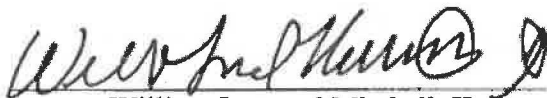
THE VIRGINIA STATE BAR



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Mark Joseph Madigan, Esquire
Respondent



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