

VIRGINIA :

**BEFORE THE EIGHTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTERS OF
PATRICK MICHAEL McGRAW**

**VS. B Docket Nos. 22-080-124934 and
22-080-126082**

**SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)**

On June 29, 2023 and August 2, 2023, meetings were held in this matter before a duly convened Eighth District Subcommittee consisting of James W. Curd, Esquire, Chair; Jennifer K. Crawford, Esquire, Member; and Jennifer Brothers, 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 Paulo E. Franco, Jr., Assistant Bar Counsel, and Patrick Michael McGraw, Respondent, *pro se*.

WHEREFORE, the Eighth District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following **PUBLIC REPRIMAND without terms**:

VS. B DOCKET NO. 22-080-124934
COMPLAINANT: Carey W. McKain, M.D.

I. STIPULATIONS OF FACT

1. Respondent was admitted to practice law in the Commonwealth of Virginia in 2005 and was, at all times relevant, active and in good standing.
2. Respondent is a solo practitioner who maintains his law office in Roanoke, Virginia.
3. On September 24, 2020, Carey W. McKain, M.D. spoke with Respondent to obtain representation to modify spousal support owed to his ex-wife caused by a change in his economic circumstances.

4. After speaking with Respondent, Dr. McKain paid Respondent \$5,000 via a credit card. Respondent transferred the payment to his trust account.

5. Respondent never clarified with Dr. McKain whether the \$5,000 represented a flat fee or an advance legal fee.

6. In accordance with the parties' separation agreement, Respondent sent Dr. McKain's wife a letter requesting negotiation and/or mediation of the request to lower spousal support payments.

7. According to Dr. McKain, Respondent advised him that the request for negotiation and/or mediation went unanswered.

8. Sometime in January of 2021, Respondent advised Dr. McKain that his ex-wife had retained counsel and made discovery requests.

9. Dr. McKain forwarded Respondent all the information and documentation that he had available that was responsive to the discovery requests.

10. Sometime in April of 2021, Respondent agreed with Dr. McKain that Dr. McKain should begin making the reduced spousal support payments as a way to force the issue of negotiating and/or mediating as per the separation agreement.

11. When it became apparent that litigation was imminent, Dr. McKain inquired about Respondent's fees going forward.

12. Respondent stated that he would send him a bill, however, Respondent did not send any bill or statement of services until after Respondent's representation was terminated.

13. In the summer of 2021, Respondent advised Dr. McKain that his ex-wife had threatened suit but that he did not know anything more.

14. The ex-wife had, in fact, filed a motion to hold Dr. McKain in contempt of court for not paying the full amount of spousal support under the separation agreement.

15. Respondent was mailed copies of that motion on August 10, 2021.

16. Throughout the fall of 2021, Dr. McKain reports that Respondent did not keep him adequately informed of the status of the case, nor did he send him a bill for services that Dr. McKain repeatedly requested.

17. As a result, Dr. McKain terminated Respondent's representation in December 2021.

18. After he was terminated, Respondent sent Dr. McKain a bill for services rendered reflecting that Dr. McKain had a balance on account, suggesting that the initial \$5,000 was an advance legal fee rather than a flat fee.

19. During his interview with the VSB Investigator, Respondent was asked to produce trust account records regarding his representation of Dr. McKain.

20. Respondent was able to produce a credit card receipt for the \$5,000 payment; however, he was not able to produce trust account records during the interview to show the credit to the account, nor was he able to produce client subsidiary ledgers and receipt/disbursement records on the date of the interview.

21. Respondent ultimately did produce those records, but it was after his interview with the VSB Investigator.

II. NATURE OF MISCONDUCT

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

By not responding to the motion to hold Dr. McKain in contempt, Respondent violated Rule 1.3 as follows.

Rule 1.3 Diligence

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

* * * *

By not keeping Dr. McKain adequately informed about the status of his case and by not responding to his repeated requests to receive a statement for services rendered to allow him to make decisions concerning the representation, Respondent violated Rule 1.4 as follows.

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

* * * *

By not adequately explaining to Dr. McKain whether his initial payment was a flat or advance fee, Respondent violated Rule 1.5 as follows.

Rule 1.5 Fees

(b) The lawyer's fee shall be adequately explained to the client. When the lawyer has not regularly represented the client, the amount, basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

* * * *

By not being able to produce records concerning the handling of Dr. McKain's advance legal fee, by not having the appropriate client subsidiary and other required journals when requested, and by not providing Dr. McKain with any contemporaneous itemized billing and accounting when repeatedly requested to do so, Respondent violated Rule 1.15 as follows.

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.

* * *

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(1) Receipts and disbursements journals for each trust account. These journals shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; manner in which the funds were received, disbursed, or transferred; and current balance. A checkbook or transaction register may be used in lieu of separate receipts and disbursements journals as long as the above information is included.

(2) A client ledger with a separate record for each client, other person, or entity from whom money has been received in trust. Each entry shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; source of funds received or purpose of the disbursement; and current balance.

(3) In the case of funds or property held by a lawyer as a fiduciary, the required books and records shall include an annual summary of all receipts and disbursements and changes in assets comparable in detail to an accounting that would be required of a court supervised

fiduciary in the same or similar capacity; including all source documents sufficient to substantiate the annual summary.

(4) All records subject to this Rule shall be preserved for at least five calendar years after termination of the representation or fiduciary responsibility.

* * * *

VSB DOCKET NO. 22-080-126082

COMPLAINANT: Alicia Terry

I. STIPULATIONS OF FACT

22. Respondent was admitted to practice law in the Commonwealth of Virginia in 2005 and was, at all times relevant, active and in good standing.

23. Respondent is a solo practitioner who maintains his law office in Roanoke, Virginia.

24. On February 24, 2022, Alicia Terry contacted Respondent to assist her collecting outstanding child support due from her son's father.

25. She paid Respondent \$3,500 via credit card but did not get a receipt. Ms. Terry did not recall signing a fee agreement with Respondent.

26. From March through May of 2022, Ms. Terry reached out to Respondent about the next step in the case.

27. Respondent replied that he was waiting for the court to act on the filings he had made on Ms. Terry's behalf.

28. At the time Respondent made those statements, he knew them to be false because he had not filed anything with the court on Ms. Terry's behalf.

29. On June 9, 2022, Ms. Terry contacted the clerk's office of the City of Roanoke Juvenile and Domestic Relations Court to inquire about the status of the filing that Respondent allegedly made on her behalf.

30. Ms. Terry was advised that there was no filing on her behalf seeking child support.

31. Ms. Terry subsequently emailed Respondent terminating his services and demanded a full refund of the fees she paid him on or before June 15, 2022.

32. When Respondent did not refund the money by June 15, 2022, Ms. Terry filed the instant complaint on June 16, 2022.

33. Shortly after Ms. Terry filed the complaint, Respondent refunded her fees.

34. During his interview with the VSB Investigator, Respondent admitted that he had misled Ms. Terry about the status of the filing.

II. NATURE OF MISCONDUCT

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

By not filing the petition to enforce child support on behalf of Ms. Terry in a timely fashion, Respondent violated Rule 1.3 as follows.

Rule 1.3 Diligence

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

* * * *

By failing to inform Ms. Terry of the true status of her case, Respondent violated Rule 1.4 as follows.

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

* * * *

By knowingly and falsely stating to Ms. Terry that he was waiting for the court to act on a petition that he had never filed, Respondent violated Rule 8.4 as follows.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

* * *

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

I. 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 Patrick Michael McGraw 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.

EIGHTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By: _____

James Walter Curd
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on August 22, 2023, a true and complete copy of the foregoing Subcommittee Determination (Public Reprimand Without Terms) was sent to Patrick Michael McGraw, Respondent, by certified mail and first-class mail at McGraw Law, P.C., La Premiere Building, Suite 207, 2727 Electric Road SW, Roanoke, VA 24018, Respondent's last address of record with the Virginia State Bar, and by email at patmcgrawlaw@gmail.com.

A handwritten signature in blue ink, appearing to read "Paulo E. Franco, Jr.", written over a horizontal line.

Paulo E. Franco, Jr.
Assistant Bar Counsel

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**BEFORE THE EIGHTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTERS OF
PATRICK MICHAEL MCGRAW**

VS **Docket Nos. 22-080-124934 and
22-080-126082**

**AGREED DISPOSITION
PUBLIC REPRIMAND WITHOUT TERMS**

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the

Virginia State Bar, by Paulo E. Franco, Jr., Assistant Bar Counsel, and Patrick Michael McGraw, Respondent, pro se, hereby enter into the following agreed disposition arising out of the referenced matters.

VS **DOCKET NO. 22-080-124934**
COMPLAINANT: Carey W. McKain, M.D.

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* * *

VSb DOCKET NO. 22-080-126082
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* * *

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and Respondent tender to a subcommittee of the Eighth District Committee for its approval the agreed disposition of a **PUBLIC REPRIMAND WITHOUT TERMS** as representing an appropriate sanction if these matters were to be heard through an evidentiary hearing by the Eighth District Committee.

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

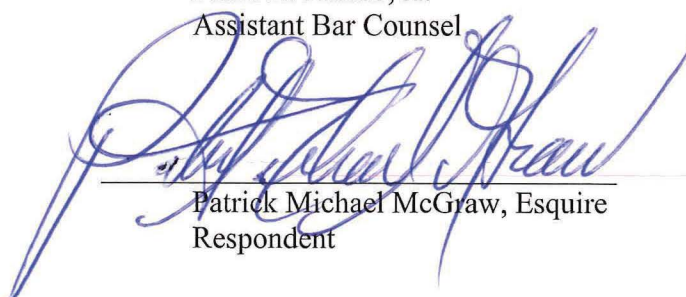
Pursuant to Part 6, § IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

THE VIRGINIA STATE BAR

**Paulo E.
Franco, Jr.**

Digitally signed by Paulo
E. Franco, Jr.
Date: 2023.08.14
10:54:00 -04'00'

Paulo E. Franco, Jr.
Assistant Bar Counsel



Patrick Michael McGraw, Esquire
Respondent