

**VIRGINIA:**

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

**VIRGINIA STATE BAR EX REL  
FIFTH DISTRICT COMMITTEE  
VSB Docket No. 22-051-125554**

**Complainant,**

**v.**

**Case No. CL2023-13042**

**MICHAEL CHRISTOPHER MILLER,**

**Respondent.**

**FINAL JUDGMENT MEMORANDUM ORDER**

THIS MATTER was heard on November 29, 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 Stephen E. Sincavage, Judge of the 20th Judicial Circuit; the Honorable Angela L. Horan, Judge of the 31st 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”).

Assistant Bar Counsel Richard W. Johnson, Jr. represented the Virginia State Bar (“VSB”). Respondent, having received proper notice of the proceeding, appeared with his counsel, W. Barry Montgomery, 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 he

should not be sanctioned by reason of the allegations of ethical misconduct set forth in the Charge of Misconduct issued by a subcommittee of the Fifth District Committee of the VSB.

#### MISCONDUCT PHASE

The Court admitted previously filed and labeled VSB Exhibits 1-22 without objection by Respondent.

The VSB and Respondent entered into Stipulations of Fact which the Court admitted into evidence.

Both parties made opening statements.

The Court received the testimony of witness Gabriela Williams.

The VSB then rested.

Respondent testified in his case. Respondent did not call any other witnesses.

The Court admitted Respondent's Exhibits 1-20.

Both parties made closing statements.

Upon due deliberation and in consideration of the parties' stipulations, 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 2000 and at all relevant times was licensed to practice in the Commonwealth of Virginia. (Parties' Stipulation, Paragraph 1).
2. On or about September 14, 2020, Gabriela Williams ("Williams") retained Respondent to represent her in a divorce. (Parties' Stipulation, Paragraph 2).

3. On August 30, 2021, Respondent emailed Williams a proposed garnishment order for Husband's Thrift Savings Plan ("TSP") to address Husband's child and spousal support arrearage. (Parties' Stipulation, Paragraph 3).
4. On that same date, Williams responded to the plan. (Parties' Stipulation, Paragraph 4).
5. On September 14, 2021, Williams and Husband entered into a property settlement agreement. In September 2021, Respondent submitted to the Fairfax Circuit Court ("Court") a final divorce decree, orders for distribution of Husband's TSP and Federal Employees Retirement System ("FERS"), and a garnishment order for Husbands TSP. (Parties' Stipulation, Paragraph 5).
6. The Court entered the final divorce decree, FERS order, TSP garnishment order, and TSP distribution order on October 4, 2021. Respondent emailed Williams a copy of the divorce decree on October 8, 2021. (Parties' Stipulation, Paragraph 5 . Williams's and Respondent's Testimony. Respondent Exhibit 10.
7. Respondent viewed his representation as complete on October 4, 2021 but did not notify Williams that he was no longer her attorney until May 6, 2022. Testimony. VSB Exhibit 19.
8. Respondent did not retrieve copies of the FERS order, TSP garnishment order or TSP distribution order from the Court. Respondent did not send the orders to the appropriate plan administrator. Respondent did not inform Williams he did not intend to send the orders to the administrators, and he expected her to do so on her own. Williams's Testimony.

9. On December 14, 2021, Williams emailed Respondent advising that her husband told her he had liquidated the TSP. Respondent did not respond. VSB Exhibit 17. Williams's Testimony.
10. On December 23, 2021, Williams emailed Respondent asking what the next steps were regarding the orders. On December 27, 2021, Respondent emailed Williams that he had submitted the TSP and FERS orders with the final order of divorce and that copies should be sent to the government for processing. On that same date, Williams emailed Respondent asking if she needed "to send something to the government or am I waiting for them to process something." Respondent did not reply to Williams's email. Parties Stipulation. Williams's and Respondent's Testimony. VSB Exhibit 17.
11. On February 23, 2022, Williams advised Respondent that neither the TSP distribution nor garnishment occurred, and she needed the money to pay Respondent. The next day, Respondent advised Williams that he had prepared the orders and Williams should pick up copies from the clerk. Parties' Stipulation Paragraph 7. VSB Exhibit 17.

#### NATURE OF MISCONDUCT

Upon consideration of the parties' stipulations, 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 Rule 1.4(a) of the Virginia Rules of Professional Conduct 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.

*By failing to inform Williams he refused to retrieve the orders and by failing to advise Williams she would need to transmit them to the retirement plans herself; by not responding to Williams's December 27, 2021 email asking if she needed "to send something to the government or am I waiting for them to process something"; and by failing to explain to Williams he considered his representation as complete upon submission of the final decree of divorce, Williams violated Rule 1.4(a).*

#### 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 23.

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, the Court reconvened to announce its sanction of Public Reprimand Without Terms.

It is further ORDERED that the Clerk shall send a copy teste of this Final Judgment Memorandum Order to Respondent, Michael C. Miller, by certified mail, return receipt requested, to 21088 Carthagen Court, Ashburn, Virginia, 20147, his address of record with the VSB; to Respondent's counsel, W. Barry Montgomery, Respondent's Counsel, KPM Law, 901 Moorefield Park Drive, Suite 200, Richmond, Virginia, 23238; to the Honorable Joanne Fronfelter, Clerk of the Disciplinary System, Virginia State Bar, 1111 E. Main Street, Suite 700, Richmond, VA 23219; and to Richard W. Johnson, Jr., Assistant Bar Counsel, Virginia State Bar, 1111 E. Main Street,

Suite 700, Richmond, VA 23219.

The hearing was recorded by Gregory Koenig of Inabnet Court Reporting, 9408 Grant Avenue, Suite 403, Manassas, Virginia 20110, telephone 703-331-0212.


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

ENTERED: 12/11/23

  
The Honorable Rondelle D. Herman  
Chief Judge Designate

I ask for this:

VIRGINIA STATE BAR

By:   
Richard W. Johnson, Jr., Assistant Bar Counsel  
VSB No. 51024  
Virginia State Bar  
1111 East Main Street, Suite 700  
Richmond, VA 23219-3565  
(804) 775-0575  
[rjohnson@vsb.org](mailto:rjohnson@vsb.org)

SEEN AND Agrad :

By: W. Montgomery

W. Barry Montgomery  
VSB No. 43042  
KPM Law  
901 Moorefield Drive, Suite 200  
Richmond, VA 23226  
(804) 320-6300  
[barry.montgomery@kpmilaw.com](mailto:barry.montgomery@kpmilaw.com)