

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
FLUX JASON NEO

VS B Docket No. 24-102-132073  
VS B Docket No. 25-102-135474

**MEMORANDUM ORDER FOR SUSPENSION WITH TERMS**

This matter came to be heard on March 27, 2026, before the Virginia State Bar Disciplinary Board (“Board”) comprised of Jennifer D. Royer, Esquire (“Chair”), Kamala H. Lannetti, Esquire, Reiss F. Wilks, Esquire, Dawn E. Boyce, Esquire, and Reba H. Davis, Lay Member. The Virginia State Bar (“the VSB” or “the Bar”) was represented by Edward Dillon, (“Deputy Bar Counsel”). Flux Jason Neo (“the Respondent”), *pro se*, appeared in person. Jennifer L. Thomas, Court Stenographer with Chandler and Halasz Stenographic Court Reporters, P.O. Box 1975, Mechanicsville, Virginia, 23116, (804) 730-1222, having been duly sworn, reported the hearing.

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

The Chair inquired of the panel members whether any of them had a personal or financial interest or any other bias which would preclude or could be perceived to preclude their adjudication of the matter fairly and impartially. Each member of the panel answered in the negative.

This Order addresses two complaints: VSB Docket No: 24-102-13273 (“*Keen*”) and VSB Docket No: 24-135474 (“*Schmeling*”). Prior to the hearing, the parties stipulated to the following Rule violations in the *Keen* matter: Rules 1.1; 1.3(a); 1.4(a); 1.4(b) and 8.1(c) and the following Rule violations in the *Schmeling* matter: Rules 1.3(a); 1.4(a); 1.4(b); 1.5(a)(1); 1.5(a)(2); 1.5(a)(3);

1.5(a)(4); 1.5(a)(5); 1.5(a)(6); 1.5(a)(7); 1.5(a)(8); 1.15(b)(4); 1.16(d); 5.3(c)(1); and 5.3(c)(2)(2): 5.3(c)(2). These stipulations were entered into evidence as Board Exhibit 1. Further, Bar Exhibits 1 through 36 were stipulated to by both parties and admitted into evidence by the Chair for the *Keen* matter. Bar Exhibits 1 through 14 were stipulated to by both parties and admitted into evidence by the Chair for the *Schmeling* matter.

These matters came before the Board on the Subcommittee Determinations (“Certifications”) of the Tenth District, Section II Subcommittee, pursuant to Part 6, Section IV, Paragraph 13-15.B.3 of the Rules involving misconduct charges against the Respondent. Having stipulated to all allegations of facts and Rule violations in the *Keen* matter and the above-referenced Rule violations in the *Schmeling* matter, Respondent contested the following Rule violations for the *Schmeling* matter: Rules 8.1(a); 8.1(c) and 8.4(b), which were then subject to the testimony and the evidence presented before the Board in the misconduct phase of the hearing.

The Respondent introduced Exhibits 1 and 2 into evidence in the *Schmeling* matter, and after proper foundation, both exhibits were admitted without objection.

The Board heard testimony from the following witnesses, who were sworn under oath: Brandi Schmeling, Complainant (“Schmeling”); Robert Baker, VSB Investigator (“Baker”); Sherrie Leonard, Legal Assistant to Respondent (“Leonard”); and the Respondent. The Board considered the exhibits introduced, heard arguments, and recessed in private to consider its decision. Thereafter, the Board made the following findings of fact by clear and convincing evidence:

#### **I. FINDINGS OF FACT**

1. Respondent was admitted to the VSB in 2009. At all relevant times, Respondent was a member of the VSB.

2. On May 8, 2023, the Tazewell County Circuit Court appointed Respondent to represent Joshua Keen ("Keen") on pending criminal charges.
3. Following a jury trial on February 21, 2024, Keen was convicted of multiple felony charges.<sup>2</sup>
4. The sentencing hearing was held on May 30, 2024. Keen told Baker that Respondent told him at the conclusion of the sentencing hearing that Keen could appeal based upon ineffective assistance of counsel but that he was withdrawing as Keen's counsel.
5. On or about June 18, 2024, Respondent timely filed a Notice of Appeal on Keen's behalf in the Tazewell County Circuit Court.
6. By letter to the Court of Appeals of Virginia (the "CAV") dated June 24, 2024, Keen stated that Respondent had not contacted him since his trial and requested an update on his appeal.
7. By letter to Keen dated July 2, 2024, Leonard, Respondent's legal assistant, enclosed documents from Keen's file and stated: "Please note that while [Respondent] filed the notice [of appeal], he is not your attorney for the actual appeal itself."
8. By letter to Keen dated July 8, 2024, with a copy to Respondent, the CAV advised Keen that the Notice of Appeal had been filed and provided a copy of Keen's letter to Respondent.
9. By letter to the CAV dated July 18, 2024, Keen requested that an attorney be appointed to represent him because Respondent had informed Keen that "he is not my lawyer for appeal[.]"

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<sup>1</sup> These findings of fact are based upon Board Exhibit 1.

<sup>2</sup> Prior to the jury trial, Keen entered a guilty plea to one of the felony charges.

10. By letter to the CAV dated August 27, 2024, Keen again stated that Respondent "will not return an answer on any inquiries" and that Respondent is "saying he is not my Lawyer[.]"
11. By letter to Keen dated September 13, 2024, with a copy to Respondent, the CAV stated, "Regarding your motion for appointment of new counsel, that motion was forwarded to your attorney on July 23, 2024, to take any action he deems appropriate. Your court-appointed counsel must file pleadings on your behalf in this Court."
12. By letter to Keen dated September 24, 2024, with a copy to Respondent, the Tazewell County Circuit Court identified Respondent as Keen's attorney.
13. On September 25, 2024, the record in Keen's case was filed with the CAV. By email to Respondent the same day, the CAV advised Respondent the time for filing the opening brief runs from that date.
14. On or about September 26, 2024, Respondent filed a Motion to Withdraw from the representation of Keen in Tazewell County Circuit Court, stating, "Upon the notice of appeal being filed, the representation reached the end of its understood scope."
15. By letter to Respondent dated September 27, 2024, Assistant Attorney General Timothy Huffstutter advised Respondent of his notice of appearance on behalf of the Commonwealth of Virginia on Keen's appeal.
16. By Order entered November 22, 2024, the CAV dismissed Keen's appeal, pursuant to Rule 5A:26 of the Rules of the Supreme Court of Virginia, because no opening brief was filed on Keen's behalf by the November 4, 2024, deadline. By email to Respondent the same day, the CAV advised Respondent that he "may want to consider filing a motion for a delayed appeal pursuant to Virginia Code § 19.2-321.1."

17. Keen told Baker that Respondent never advised him that the CAV had dismissed his appeal and never advised him of the option of filing a motion for delayed appeal.
18. By letter to the CAV dated November 29, 2024, Keen stated that he understood Respondent was "to file opening brief after record was received by your court[]" and that he had received a letter from the Tazewell County Circuit Court enclosing Respondent's Motion to Withdraw.
19. On or about December 9, 2024, Keen filed a *pro se* Motion to Reduce Sentence ("Motion") with the Tazewell County Circuit Court.
20. By Order entered December 18, 2024, the Tazewell County Circuit Court denied the Motion and directed the Clerk to send a copy of the Order to Respondent.
21. By letter to Keen dated December 18, 2024, with a copy to Respondent, the Tazewell County Circuit Court stated, "As to your allegation that this Court allowed [Respondent] to withdraw from your representation, please be advised that this Court never entered any Order allowing [Respondent] to withdraw from your case."
22. By letter to Keen dated January 21, 2025, with a copy to Respondent, the CAV advised Keen that he should direct his questions about the status of the appeal to Respondent and advised Keen that the CAV had dismissed his appeal on November 22, 2024.
23. By letter to the CAV dated January 29, 2025, Keen stated: "I get that I need to go through my 'Lawyer' ... But He's the problem. . . . Since its obvious he don't care about my case nor will he write back, accept or return any phone calls (mine or families) and Tazewell Circuit Court will not replace him and give me another Lawyer without something from your court. What do I do? How do I 'fire' him and get another court appointed Lawyer? Who, or which court has to do that?"

24. By letter to Keen dated February 14, 2025, with a copy to Respondent, the CAV again advised Keen to direct his questions about the status of the appeal to Respondent.
25. On or about February 25, 2025, Respondent filed, on behalf of Keen, a Motion to Withdraw as Counsel for Appellant and a Motion for Leave to File Delayed Appeal in the Tazewell County Circuit Court. The header for each of these two pleadings reads: "VIRGINIA: IN THE VIRGINIA COURT OF APPEALS."
26. By letter to the CAV dated March 17, 2025, Keen stated that he had received copies of the Motion to Withdraw as Counsel for Appellant and Motion for Leave to File Delayed Appeal from Respondent and inquired about the status of the motions.
27. By letter dated March 31, 2025, the VSB notified Respondent that it was conducting a preliminary investigation into a Bar complaint filed against Respondent by Keen, enclosed a copy of the Bar complaint, and requested that Respondent submit a written response to the Bar complaint within 21 days. The letter also informed Respondent of his obligation, under Rule of Professional Conduct 8.1(c), to comply with lawful demands for information by the VSB.
28. Respondent never submitted a written response to the Bar complaint.
29. By letter to Keen dated April 23, 2025, with a copy to Respondent, the CAV indicated it had received an addendum to the record in Keen's appeal that included both motions and stated, "If the intent [was] to file a motion for a delayed appeal ... such filing is to be made directly with this Court. By copy of this letter to your attorney, he will be informed as such."
30. By letter to Respondent dated April 30, 2025, the VSB informed Respondent that Keen's Bar complaint had been referred to the Tenth District Committee, Section II for

investigation and that a VSB investigator may contact him during the investigation. The letter also informed Respondent of his obligation, under Rule of Professional Conduct 8.1(c), to comply with lawful demands for information by the VSB and that failure to comply with the VSB investigator's "demands for information about a complaint in a timely manner may result in the imposition of disciplinary sanctions."

31. By letters to the CAV dated July 7, 2025, and July 13, 2025, Keen again stated that Respondent was not communicating with him and inquired about the status of his appeal.
32. By letter to Keen dated August 1, 2025, with a copy to Respondent, the CAV advised Keen to direct his questions about the status of the appeal to Respondent, reiterated that the Motion for Leave to File a Delayed Appeal was incorrectly filed in the Tazewell County Circuit Court and not the CAV, stated that it has no "record of an appeal to the Supreme Court of Virginia being filed in your case[,]" and advised Keen that "[y]our case has ended and is no longer active in this Court."
33. Between August 28, 2025, and October 23, 2025, Baker made more than two dozen attempts to contact Respondent by telephone, text message, email, and regular mail to schedule an interview with Respondent about Keen's Bar complaint. Baker made efforts to communicate with Respondent at both his address of record and email address of record, as well as multiple phone numbers and email addresses.
34. On or about October 8, 2025, Respondent filed a Motion for Transcript on Keen's behalf with the Tazewell County Circuit Court.
35. Keen told Baker that, between the May 2024 sentencing hearing and October 2025, he tried to contact Respondent by telephone 30 to 40 times and by mail about 10 times without

success. He also stated that various family members had also tried to contact Respondent on his behalf without success.

36. Keen also told Baker that Respondent contacted him by telephone in October 2025 and, among other things, spoke with Keen about ineffective assistance of counsel.
37. Respondent never submitted to an interview with Baker or otherwise provided information to the VSB during its investigation of Keen's Bar complaint.

VSB Docket No. 25-102-135474 (Complainant Brandi Schmeling)<sup>3</sup>

38. On or about May 2024, Brandi Schmeling and her husband, Kurt Schmeling, (collectively, "the Schmelings") engaged Respondent to represent them in seeking custody of their grandson, who had been living with them but who resided in New York.
39. On or about May 23, 2024, Schmeling had a telephone consultation with Respondent about the custody matter.
40. Also on May 23, 2024, the Schmelings paid Respondent a fixed fee of \$3,500 in cash to represent them in the custody matter. There was no written fee agreement.
41. In June and July 2024, Schmeling contacted Leonard to check on the status of the custody matter, including whether anything had been filed.
42. By text message to Leonard dated July 1, 2024, Schmeling stated: "I'm getting sick of being ignored I haven't heard from our lawyer since he was paid. He needs to call me[.]"
43. On or about August 23, 2024 (the "August 2024 Meeting"), the Schmelings met with Respondent at his law office. Respondent advised the Schmelings to complete a Request

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<sup>3</sup> The finding of facts for the *Schmeling* matter includes the stipulations of the parties as stated in Board Exhibit 1 and findings of the Board based upon clear and convincing evidence presented at the hearing.

for Virginia Registration of a Child Custody and/or Visitation Determination from Another State (the "Custody Form") and file it with the court.

44. The August 2024 Meeting was the last substantive communication the Schmelings had with Respondent about the custody matter.
45. Schmeling subsequently obtained a copy of the Custody Form from the Tazewell County Juvenile & Domestic Relations Court (the "J&DR Court") and, with the assistance of a family member, completed it.
46. Schmeling later took the Custody Form to the J&DR Court to file it but was advised by court staff that an attorney had to file it.
47. Schmeling called Respondent's law office and spoke with Leonard, who told her that Respondent would take care of filing the Custody Form.
48. Respondent never contacted the Schmelings about the Custody Form and did not file it with the J&DR Court.
49. The Schmelings were unable to afford another attorney without the return of the \$3,500 advanced legal fee they had paid to Respondent.
50. Schmeling attempted to request a refund of the \$3,500 advanced legal fee by calling Respondent's law office, leaving voicemail messages, sending emails to Respondent's law office, and sending text messages to Leonard. Schmeling told Baker that she believed the phone number she had for Respondent was a landline, so she did not send him text messages.
51. By text message to Leonard dated September 9, 2024, Schmeling stated: "We want our money back! Nothing was ever done[.]"

52. By text message to Leonard dated September 10, 2024, Schmeling stated: "We would like our money back!!"
53. By text message to Leonard dated September 11, 2024, Schmeling stated: "I've been trying to call all I'm getting is a busy signal. [W]e want our money back. Hired a lawyer that didn't do anything for the 4 months we hired him."
54. On September 17, 2024, Leonard responded to Schmeling with the following text message: "I apologize for not getting back to you sooner. I have been out of the office last week. I'll bring this to Mr. Neo's attention and get back with you. I won't see him until Thursday."
55. By text message to Leonard dated September 23, 2024, Schmeling asked: "When can we pick up our money? I'm sick of not getting any answer!!"
56. By email to Respondent's law office dated October 22, 2024, Schmeling stated: "I've been reaching out no one calls or message[s] back .we want ou[r] money back. Someone needs [to] get back to us ASAP?"
57. By text message to Leonard dated January 15, 2025, Schmeling asked: "So how much longer are we gonna be ignored. Seen [Respondent] at court he just looked other way like didn't see us !! It's not ok [to] just take someone's money and not do his job!!"
58. On or about May 6, 2025, Schmeling filed a Bar complaint against Respondent with the VSB.
59. By letter dated May 9, 2025, to Respondent at his address of record, the VSB informed Respondent that the matter had been referred to the Tenth District, Section II Committee for investigation, reminded Respondent of his obligation under Rule of Professional Conduct 8.1(c) to comply with lawful demands for information from the VSB, and demanded that Respondent submit a written response to the Bar complaint within 21 days.

60. By letter to the VSB dated August 29, 2025 (the "Written Response"), Respondent confirmed that the Schmelings paid him \$3,500 in May 2024 for representation in the custody matter, stated that they came to his office on August 26, 2024, to have the Custody Form notarized, and stated that the Schmelings were supposed to "submit [the Custody Form] to the court." Further, Respondent stated that "there was no follow-up communication from the client since that time. In all candor, the matter was simply forgotten due to client lack of any communication until this complaint."
61. Respondent also stated in the Written Response,<sup>4</sup> "As there had been no further communication by Ms. Schmeling to either myself or my office besides this complaint to the Virginia State Bar, it was my contention that she had simply changed her mind about needing counsel in her matters. But as of this time no request for refund has ever been made. Therefore, I took no further action. I will issue a refund of the retainer to Ms. Schmeling at the address listed on the bar complaint."
62. Between late August 2025 and December 11, 2025, Baker, made numerous efforts to contact Respondent by telephone, email, mail, and text message to schedule an interview with Respondent about Schmeling's allegations. Baker was able to speak with Leonard several times and requested that Respondent return his phone call, but Respondent never communicated with Baker.
63. By letter dated September 8, 2025, to Respondent by email to multiple email addresses and also by certified mail (the "Interview Letter"), Baker stated, "The Virginia State Bar is investigating the above listed complaint that has been pending against you since May 6,

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<sup>4</sup> The letterhead on which the Written Response was written identified (276) 988-7996 as the telephone number for the Flux J. Neo Law Firm, PLLC, and identified Service@NeoLaw1.com. as the email address.

2025. I have made repeated efforts to contact you since mid-August 2025 to schedule your interview in this matter. All my phone calls, voice mail messages, emails, text messages, and messages with your legal assistant, Ms. Sherrie Leonard, have gone unanswered by you. This letter will serve as my last attempt to contact you regarding this matter. Please call me at (540) 266-8051 on or before 4:45 p.m. on Friday, September 19, 2025, to schedule your interview in this matter.”

64. Respondent did not respond to the Interview Letter or otherwise submit to an interview by Baker during the VSB investigation.
65. Baker also made a personal visit to Respondent’s office in Tazewell, Virginia, and finding the doors locked, Baker left a hand-written note under the door of the office to Respondent, requesting he contact Baker to set up an interview. Respondent failed to respond to Baker’s note.
66. By letter to the Schmelings dated September 12, 2025, with a copy to the VSB (the "Refund Letter"), Respondent stated, "Enclosed is check #2055 ... for a refund of the retainer paid for legal services." The copy of the Refund Letter received by the VSB did not include a copy of the purported refund check. The copy of the purported refund check that was introduced into evidence was drawn on Respondent’s operating account instead of his trust account.
67. By email dated September 24, 2025, Baker forwarded the Refund Letter to Schmeling and asked whether the Refund Letter was "factual" and whether she could send a photo of the refund check to Baker.
68. By email to Baker dated September 24, 2025, Schmeling stated, "We have received nothing from him at all!"

69. By email to Schmeling dated September 25, 2025, Leonard stated that Respondent sent the refund check to Schmeling by certified mail on September 12, 2025, and asked whether she had received it.
70. By email to Leonard dated September 25, 2025, Schmeling responded, "No we have not."
71. By email to Schmeling dated September 25, 2025, Leonard stated, "If you have not received it by Monday, 09/29/25, we can cancel it and you can come by the office and pick up the refund check."
72. By email to Baker dated September 26, 2025, Schmeling summarized her communications with Leonard about the refund check, stated that the Schmelings are "not ok going into his office[,]" and expressed her disbelief that Respondent even sent a refund check.
73. Baker reached Respondent on his personal cellular telephone on December 11, 2025. On January 16, 2026, Baker made an appointment for a personal visit with Respondent for February 16, 2026, at his office in Tazewell.
74. During the in-person meeting on February 16, 2026, Respondent informed Baker that he was unaware that Baker had been trying to contact him for an interview in the *Schmeling* matter or that the *Schmeling* matter was set for hearing in late March.
75. Between May and December of 2025, Baker sent Respondent at least 6 emails to the following email addresses: Service@Neolaw1.com; Sherrie@NeoLaw1.com; and FluxNeo@gmail.com. Baker made at least 28 calls to Respondent at the following numbers: (877) 636-5291, (844) 636-5291, (276) 988-7996, and Respondent's personal mobile phone number. Baker successfully communicated with Respondent through his personal mobile number, but Respondent did not participate in an interview with Baker.

76. Leonard testified that she began experiencing medical problems in 2024 and that Respondent knew that she had medical problems because she took leave from work for medical appointments in Bristol and in Roanoke, which were hours away from Tazewell, but she did not provide Respondent with many details of the specific medical issues that she was experiencing.
77. Leonard also provided the following testimony, which the Board did not find credible:
- a. Leonard “dropped the ball” on the *Schmeling* matter in that she never informed Respondent of the Schmelings’ dissatisfaction with his services, the numerous requests made for a refund of the \$3,500 advanced legal fee, or that Schmeling filed a Bar complaint in May of 2025.
  - b. Respondent first learned of the *Schmeling* complaint in August of 2025, and she assisted Respondent in filing an answer to that complaint, representing to Respondent that Schmeling had not followed up on the custody matter nor requested a refund of the advanced fee.
  - c. Leonard deliberately hid Respondent’s mail from the VSB, deleted emails from the VSB, and failed to give telephone messages to Respondent from the VSB Investigator on the *Schmeling* matter because she was embarrassed and claimed she was “in too deep.” She only kept this information from Respondent on the *Schmeling* case and no other case.<sup>5</sup>

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<sup>5</sup> The Board did not find this specific testimony to be credible because the documentary evidence and communications from Baker that Leonard claimed to have hidden and/or deleted did not reference the Schmelings by name. Moreover, Respondent stipulated to a violation of 8.1(c) in the *Keen* case related to his failure to cooperate with the VSB investigation during this same overlapping time period, and Leonard did not testify that she also hid or deleted communications from the VSB or Baker in that case.

78. Leonard was Respondent's only employee and ran his office while he was in court, which occurred four to five days a week. Although Respondent testified that he fully relied on Leonard to run the office, Respondent maintained access to his firm's files, email accounts, phone logs, and voicemails. Only Respondent could withdraw or transfer funds from his trust and operating accounts.
79. Respondent testified that he first learned of the *Schmeling* matter in August of 2025 and he relied on Leonard's representation that Schmeling never complained about his services nor requested a refund and represented to the Bar that it merely "fell through the cracks," but the Board did not find this testimony to be credible as Respondent had directly received numerous communications from Baker related to the VSB's investigation and the *Schmeling* complaint on his personal devices.
80. Respondent never contacted the VSB after filing his response to the *Schmeling* complaint to determine if there were other issues to resolve or to seek a status update on the matter because he believed it was the VSB's responsibility to contact him for next steps.
81. Respondent never contacted the Schmelings between September and December of 2025 in response to their Bar complaint or to determine if they received the refund check even though the check allegedly had not been cashed.
82. Respondent's Exhibit 2 indicates that on December 2, 2025, Respondent made an in-person request to his banking institution to stop payment on the \$3,500 check to the Schmelings.
83. Respondent made no effort to return the Schmelings' \$3,500 advance legal fee payment until the morning of the March 27, 2026, Disciplinary Board Hearing, when Respondent provided the full \$3,500 refund to Schmeling in cash.

84. Respondent placed the responsibility for his handling of the *Schmeling* matter solely on Leonard, who accepted responsibility for Respondent's failures to communicate with his clients, Respondent's failure perform any legal services for his clients, and Respondent's failure to return their advance fee payment to them despite evidence that only Respondent could issue checks from his accounts.
85. Despite Leonard's apparent confession that she actively interfered with Respondent's relationship with the Schmelings and his response to the VSB related to the Schmelings' Bar complaint, Respondent did not terminate Leonard's employment or discipline her.
86. Leonard remained employed as Respondent's legal assistant at the March 27, 2026, Disciplinary Board Hearing, and Respondent took no action to limit or remove Leonard's access to his clients or their files from the date he learned of her apparent subterfuge through the date of the hearing.
87. Leonard testified that she would be leaving employment with the Respondent at the end of April of 2026 after she had time to train a new legal assistant to replace her. She would continue to run Respondent's law firm until that time.
88. Based on the presentation of the witnesses and inconsistencies in the record and the testimony, the Board did not find either Respondent's testimony or Leonard's testimony credible.

## **II. NATURE OF MISCONDUCT**

At the end of the testimony and after both sides rested, the parties presented closing statements. After which, the Board recessed to deliberate on the question of whether the Bar had proven, by clear and convincing evidence, violations of the Rules of Professional Conduct charged in the Certification. Thereafter, the Board convened in open session and announced that it had found violations of the

following Rules of Professional Conduct by clear and convincing evidence:

VSb Docket No. 24-102-132073 (Complainant Joshua Keen)

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.

*By failing to perfect Keen's appeal to the CAV, including but not limited to, by failing to file an opening brief; by failing to advise Keen of any subsequent remedial measures following the CAV's November 2024 dismissal of his appeal; by filing the Motion for Leave to File a Delayed Appeal in Tazewell County Circuit Court rather than in the CAV; and by abandoning Keen as a client when no court had granted him leave to withdraw as counsel for Keen, Respondent violated Rule 1.1.*

RULE 1.3 Diligence

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

*By advising Keen that he would not represent Keen on appeal and thereafter, without leave to withdraw as counsel having been granted by the Tazewell County Circuit Court, by failing to perfect Keen's appeal to the CAV, including but not limited to by failing to file an opening brief; by failing to advise Keen of any subsequent remedial measures following the CAV's November 2024 dismissal of the appeal; and by failing to take any remedial appellate measures on Keen's behalf, including but not limited to, filing a petition for rehearing, pursuing an appeal to the Supreme Court of Virginia, or pursuing a delayed appeal; and by abandoning Keen as a client without leave of any court, 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.

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

*By failing to respond to Keen's numerous requests for information about his appeal between May 2024 and October 2025; by failing to communicate with Keen about his appeal despite repeated notifications from the Tazewell County Circuit Court and the CAV that he remained Keen's counsel of record; by failing to advise Keen that the CAV had dismissed his appeal; and by failing to advise Keen of any remedial appellate options, including an appeal to the Supreme Court of Virginia or a motion for a delayed appeal, Respondent violated Rules 1.4(a) and (b).*

## RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

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(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6[.]

*By failing to provide a written response to the VSB to Keen's Bar complaint despite the written request for one by the VSB, by failing to respond to numerous requests by Baker to communicate with him about Keen's Bar complaint, and by failing to submit to an interview by Baker or otherwise provide information to the VSB during the investigation of Keen's Bar complaint, Respondent violated Rule 8.1(c).*

### VSB Docket No. 25-102-135474 (Complainant Brandi Schmeling)

## RULE 1.3 Diligence

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

*By undertaking the representation of the Schmelings in May of 2024 and subsequently providing no legal services to them in their custody matter, including but not limited to, failing to file the Custody Form with the J&DR Court to domesticate the case from New York to Virginia, despite multiple follow-ups from Schmeling, Respondent violated RPC 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.

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

*By having no communication with the Schmelings about the custody matter beyond an initial telephone consultation with Schmeling in May of 2024 and an in-person meeting in August of 2024, by failing to respond to Schmeling's numerous phone calls and text messages to his law office requesting information about her custody matter and her request for a refund of the \$3,500 advance legal fee, by failing to advise the Schmelings that he had not or would not file the Custody Form with the J&DR Court to domesticate the New York case in a Virginia court, by failing to advise the Schmelings that he had taken no action on their custody matter, and by failing to advise*

*the Schmelings that they should seek the assistance of another attorney, Respondent violated RPC 1.4(a) and (b).*

#### RULE 1.5 Fees

- (a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:
1. the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
  2. the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
  3. the fee customarily charged in the locality for similar legal services;
  4. the amount involved and the results obtained;
  5. the time limitations imposed by the client or by the circumstances;
  6. the nature and length of the professional relationship with the client;
  7. the experience, reputation, and ability of the lawyer or lawyers performing the services; and
  8. whether the fee is fixed or contingent.

*By soliciting and accepting a \$3,500 advance fixed legal fee from the Schmelings, advising them to complete and file the Custody Form with the J&DR Court, and thereafter providing them with no legal services despite retaining their advance fixed fee, Respondent charged an unreasonable fee for his services in violation of RPC 1.5(a).*

#### RULE 1.15 Safekeeping Property

- (a) Specific Duties. A lawyer shall:

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- (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer that such person is entitled to receive;

*By failing to refund any portion of the unearned \$3,500 advance legal fee to the Schmelings until the day of the March 27, 2026, Disciplinary Board Hearing despite Schmeling's numerous requests for a refund for more than a year prior to the hearing, Respondent violated RPC 1.15(b)(4).*

## RULE 1.16 Declining Or Terminating Representation

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- d. Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

*By soliciting and accepting a \$3,500 advance legal fee from the Schmelings in May of 2024 for representation in their custody matter, failing to provide any legal services to the Schmelings and effectively abandoning the representation, and then failing to refund any of the unearned \$3,500 advance legal fee to the Schmelings for more than a year despite Schmelings' numerous requests for a refund, Respondent violated RPC 1.16(d).*

## RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

With respect to a nonlawyer employed or retained by or associated with a lawyer:

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- (b) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
  - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved;
  - (2) or the lawyer is a partner or has managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows or should have known of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

*Respondent violated RPC 5.3(b)(1) and (2) because, as a solo practitioner with complete managerial authority over Leonard, he, knowing that he had undertaken representation of the Schmelings and had accepted their advance fee payment, delegated and/or abdicated all responsibility for communicating with the Schmelings about their custody matter to Leonard; failed to supervise Leonard to ensure that she was having prompt, effective communications with the Schmelings on his behalf; failed to review any communication received by the firm from the Schmelings; failed to inquire of Leonard as to any communications she had with the Schmelings or any communications that he had received from third parties related to his representation of the Schmelings until August of 2025 when responding to the Schmelings' Bar complaint; failed to provide proper instruction to Leonard to ensure that Leonard was taking necessary and appropriate actions within her skill level and delegated responsibility to provide the Schmelings with diligent representation by following up with them regarding the Custody Form to be filed in the J&DR Court to domesticate the custody case in Virginia; and failed to ensure that Leonard prepared a refund check to the Schmelings for their unearned advance fee payment upon their request. By vesting complete responsibility in Leonard for all aspects of the representation of the*

*Schmelings and accepting the outcome of such delegation without taking any action to avoid or mitigate the consequences of such delegation – such as by contacting the Schmelings directly about their representation and concerns, providing legal services to the Schmelings, or promptly refunding their unearned advance fee – Respondent ratified Leonard's conduct, which would constitute violations of Rules 1.3(a), 1.4(a) and (b), and 1.15(b)(4), had such conduct been performed by an attorney.*

RULE 8.1 Bar Admission And Disciplinary Matters

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An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

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- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6;

*By failing to submit to an interview with Baker despite having knowledge of the VSB investigation as reflected by Baker's numerous requests by mail, telephone, text message, and email to speak with him, Respondent violated RPC 8.1(c).*

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

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- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;

*By soliciting and accepting a \$3,500 advance legal fee from the Schmelings for representation in their custody matter, by failing to communicate with the Schmelings about their custody matter, by failing to provide any legal services to the Schmelings in their custody matter, and by failing to refund any of the \$3,500 advance fee to the Schmelings for more than a year despite their numerous requests for a refund – all of which constitute deliberately wrongful acts that reflect adversely on a lawyer's honesty, trustworthiness, or fitness to practice law - Respondent violated RPC 8.4(b).*

The Board did not find, by clear and convincing evidence, that Respondent violated Rule 8.1(a) in the *Schmeling* matter and dismissed that charge.

### III. IMPOSITION OF SANCTION

Thereafter, the Board received further evidence and argument from the parties regarding the imposition of sanctions. The Bar introduced Respondent's prior disciplinary history as Bar Exhibit 15 (*Schmeling*) and Bar Exhibit 37 (*Keen*). The Bar requested suspension of the Respondent's license and cited multiple factors for the Board to consider in aggravation, including his prior disciplinary matters, which showed a pattern of violations of the Rules charged in the *Keen* and *Schmeling* matters; his failure to take responsibility for these actions; his lack of remorse for the outcome of his actions; his lack of credibility, and his failure to refund the Schmelings their \$3,500.00 advance legal fee payment for more than a year after their request. During his presentation, Respondent apologized to both the Bar and to Schmeling for his actions and inactions during his representation.

After considering the exhibits, testimony and arguments of counsel, the Board was guided in its deliberations by the Standard 4.43 of the Annotated Standards for Imposing Lawyer Sanctions, 2<sup>nd</sup> Edition (ABA 2019), which provides that "suspension is appropriate . . . when a lawyer knowingly violates a duty owed to a client, the public or the legal system, causing injury or potential injury or engages in a pattern of neglect."

The Board was persuaded by Respondent's failure to perform the basic legal services required to pursue Keen's appeal in the proper court and his failure to perform any legal services for the Schmelings. Both Keen, who received a life sentence based, at least in part, upon Respondent's stated "ineffective assistance of counsel," and the Schmelings, who were financially unable to retain another attorney without a refund of their advance fee payment and who consequently lost their ability to pursue their custody case due to Respondent's failures to act, were vulnerable clients.

Respondent also violated his obligation to the profession by failing to communicate with the VSB during its investigation despite numerous letters, telephone calls, text messages, emails, and personal visits to Respondent's office.

Lastly, Respondent failed to refund the Schmelings' \$3,500.00 advance fee payment until the morning of the Disciplinary Board Hearing. Respondent's purported September 2025 refund letter failed to include the check, or a copy of the check, and Respondent's evidence proved that the copy of the check admitted into evidence was written from the Respondent's operating account rather than his trust account as required by the Rules of Professional Conduct. Respondent provided no credible basis for failing to refund the Schmelings' advance fee for more than a year after their first request.

The Board found no mitigating factors and considered the following as aggravating factors: (1) prior disciplinary offenses; (2) dishonest or selfish motive; (3) a pattern of misconduct; (4) multiple offenses; (5) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (6) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (7) refusal to acknowledge wrongful nature; (8) vulnerability of the victims, Keen being incarcerated and Schmeling unable to afford another attorney to pursue her custody case, resulting in her grandson's relocation to New York; (9) substantial experience, having practiced law since 2009; and (10) indifference to making restitution, having only provided a full refund to Schmeling the morning of the Disciplinary Board Hearing.

Upon concluding its deliberations and reconvening in open session, the Chair announced the sanction as follows:

It is **ORDERED** that Respondent receives a **TWO-YEAR SUSPENSION**, and the Respondent must comply **with the following terms**:

1. On or before March 27, 2027, Respondent shall complete twelve (12) hours of continuing legal education credits by attending courses approved by the VSB in the following subject matters: criminal appeals, trust accounting, and law office

management. Respondent's Continuing Legal Education attendance obligation set forth in this paragraph shall not be applied toward his Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which Respondent may be licensed to practice law. Respondent shall certify his compliance with the terms set forth in this paragraph by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance form (Form 2) to Bar Counsel, promptly following his attendance of each such CLE programs(s).

2. No later than March 27, 2027, Respondent will read in its entirety *Lawyers and Other People's Money, 5<sup>th</sup> Edition*, and Legal Ethics Opinion 1606 and will certify compliance in writing to Bar Counsel.

If, however, any of the terms and conditions is not met by the deadline imposed above, it is **ORDERED** that the alternative sanction of an additional one-year suspension must be imposed for Respondent's failure to comply. Such additional one-year suspension shall run consecutively to the two-year suspension imposed by this Order. In the event of alleged noncompliance, a hearing will be convened upon an order for the Respondent to show cause why the alternative disposition should not be imposed. At such hearing, Respondent shall have the burden of providing compliance or good cause for the alleged noncompliance by clear and convincing evidence.

It is further **ORDERED** that the effective date of this Suspension is March 27, 2026.

It is further **ORDERED** that, as directed in the Board's March 27, 2026, Summary Order in these matters, Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules. Respondent must forthwith give notice by certified mail 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 must also make appropriate arrangements for the disposition of matters then in his care in conformity

with the wishes of his clients. Respondent must give such notice immediately and in no event later than fourteen (14) days of the effective date of the Suspension and must make such arrangements as are required herein as soon as is practicable and in no event later than forty-five (45) days of the effective date of the Suspension. Respondent must also furnish proof to the Clerk within sixty (60) days of the effective date of the Suspension that such notices have been timely given, and such arrangements have been 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 within sixty (60) days of the effective date of the Suspension to the Clerk. The Board must decide all issues concerning the adequacy of the notice and arrangements required herein. The burden of proof shall be on Respondent to show compliance. If Respondent fails to show compliance, the Board may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of subparagraph 13-29.

It is further **ORDERED** that pursuant to Part 6, Section IV, Paragraph 13-9. E of the Rules, the Clerk shall assess all costs against the Respondent.

It is further **ORDERED** that an attested copy of this Order be mailed by the Clerk to the Respondent by electronic, first-class and certified mail, return receipt requested, to his address of record with the Virginia State Bar, being P.O. Box 188 Tazewell, VA 24651-0188, and his alternate address of record, and to Edward Dillon, Deputy Bar Counsel by electronic mail only.

ENTERED this 13th day of May, 2026.

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
Jennifer D. Royer, Chair

