

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
JOSEPH RAY POPE**

VSb DOCKET NO. 21-031-121122

MEMORANDUM ORDER OF REVOCATION

A panel of the Virginia State Bar Disciplinary Board (the “Board”) heard this matter on July 1 and 15, 2022.¹ The Panel included Steven B. Novey, Second Vice Chair (“Chair”); Yvonne S. Gibney; Kamala H. Lannetti; Tony H. Pham; and Martha J. Goodman, Lay Member. The Chair polled members of the Panel as to whether any of them had any personal or financial interest that might affect or reasonably be perceived to affect the member’s ability to be impartial, to which inquiry each member responded in the negative.

Renu M. Brennan, Bar Counsel, represented the Virginia State Bar (the “Bar”). The Respondent, Joseph Ray Pope (“Pope”) represented himself.

Beverly S. Lukowsky, court reporter, Chandler and Halasz, Inc., Post Office Box 9349, Richmond, VA 23227, (804) 730-1222, after having been duly sworn, reported the hearing and transcribed the proceeding.

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

The matter came before the Board upon the Subcommittee Determination (Certification) of the Third District Subcommittee, Section I, of the Bar. Prior to the proceedings, pursuant to the

¹ The hearing in this matter initially had been scheduled for June 24, 2022. The Chair granted Pope’s request for a continuance based on his counsel’s representation she had been exposed to COVID. The Chair then granted Pope’s motion to allow his counsel to withdraw. In addition, Pope consented to proceeding, pro se, on the rescheduled hearing date, July 1, 2022. The Board was unable to complete the rescheduled hearing on July 1, 2022, resulting in the scheduling of a continuation of the hearing to July 15, 2022, over Pope’s objection. Although the Chair gave Pope the option of participating remotely that day, Pope participated in person.

Prehearing Conference Call Orders dated June 22, 2022 and June 23, 2022 and the Prehearing Conference on July 1, 2022, the Chair admitted the following exhibits: VSB Exhibits 1-13; Attachments to VSB Exhibit 14 (Krystal Laviena's Timeline, 2M, 2N, and 2O); and VSB Exhibits 15-119. The Bar withdrew VSB Exhibits 14 and 120-123. During the hearing Respondent Exhibit 1 was admitted, over the Bar's objection. Respondent Exhibit 2 was refused.

The Board heard testimony during the misconduct phase from the following witnesses, who were sworn under oath: Joseph R. Pope; Krystal J. Laviena; Matthew Torruella; Suzette L. Hutchens; and Oren M. Powell, all of whom testified in person. In addition, the following witnesses were sworn under oath and testified virtually through the Microsoft Teams platform: Father Thomas G. Weinandy; Wyatt S. Beazley, IV; Matt C. Pinsker; and Ronald Smiley.

The Chair denied Pope's motion to strike made at the conclusion of the evidence presented by the Bar in the misconduct phase of the hearing.

The Board considered the witness testimony, the exhibits, and arguments of counsel. The Board then met in private to consider its decision.

MISCONDUCT

I. Findings of Fact

The Board found the following facts by clear and convincing evidence:

Background: Pope and the Complainant

1. Pope was admitted to practice law in Virginia in 2005. At all relevant times, Pope was a member in good standing of the Bar. Pope was employed by the Williams Mullen law firm at the time of Pope's marriage to the Complainant, Krystal J. Laviena ("Krystal").

2. Krystal is a life-long practicing Catholic and requested Pope to become a Catholic before they married, a request Pope described as being "*a really big thing*" for Krystal. Krystal

has a minor daughter. Krystal shares custody of her daughter with the father of her child, Ronald Smiley.

3. Pope married Krystal on December 18, 2018. Pope and Krystal resided in the marital home, located at 12136 Manor Walk Drive, Glen Allen, Virginia, for six months. Both while they were dating and once married, Pope and Krystal's relationship was volatile and at times involved law enforcement intervention. At the time they separated on June 16, 2019 Krystal was recovering from surgery and was unemployed. Having limited means, Krystal accepted the invitation of a neighbor, Matthew Torruella ("Matt"), to reside temporarily at Matt's home, located two houses away from the marital residence at 12144 Manor Walk Drive, Glen Allen, Virginia. Matt's fiancée and brother also resided with Matt when Krystal moved to Matt's home. VSB Ex. 5 at 203. Matt had friendly relationships with both Krystal and Pope at the time of the couple's separation. Matt's relationship with Krystal was not a romantic one. Id. at 206.

Emails of Questionable Authenticity

4. Pope and Krystal's relationship became increasingly contentious following their separation. Krystal did not want to reconcile with Pope. The evidence reflects that Pope wanted to reconcile their marriage.

5. On August 12, 2019 Pope forwarded to Krystal an email that purported to be from a Catholic priest, "Fr. Thomas Weinandy," with the email address: "tweinandy.capcollegeweb@gmail.com." VSB Ex. 15. The forwarded email contained theological guidance to Pope in which the author advised that "*a separated spouse cannot take communion unless and until they have made every possible attempt to reconcile and restore the marriage.*" It further stated that it was Krystal's "*duty (as the deserting spouse) to come to [Pope]*

(the deserted spouse) face-to-face in humility and love, and seek forgiveness and reconciliation.”

The email also advised:

... do not take any act against [Krystal] outside of enforcing your legal rights under the civil law. Leave room for the wrath of God, ‘Vengeance is Mine, I will repay,’ says the Lord.

6. Concerned about the message in the email and skeptical about the source of the email Pope had forwarded, Krystal enlisted Matt’s assistance in ascertaining its legitimacy. Matt is an IT professional. Using the pseudonym “Marco Polo,” Matt sent an email on August 12, 2019 at 3:10 pm to the “tweinandy.capcollegeweb@gmail.com” email address and asked the recipient to confirm the authenticity of the email Pope had forwarded to Krystal a few hours earlier. VSB Ex. 16. Less than an hour later Pope sent an email to Krystal chastising her for “Marco Polo’s” inquiry.

Please do not have your ‘friend’ email Father Weinandy to ‘confirm’ his email address. I assume you believe I made him up.

VSB Ex. 17.

7. A few days later Krystal obtained an email address for the real Father Thomas G. Weinandy at Capuchin College in Washington, DC: tweinandy@gmail.com. She sent an email to him at that address on August 16, 2019 to ascertain if the “tweinandy.capcollegeweb@gmail.com” email address belonged to him. VSB Ex. 23. The real Father Weinandy responded that “tweinandy.capcollegeweb@gmail.com” was not his email address. Id.

8. Krystal subsequently received four more emails impersonating Father Weinandy from the “tweinandy.capcollegeweb@gmail.com” email address:

a. In an August 27, 2019 email from this email address, the impersonated Father Weinandy claimed that Pope was “*in tremendous pain over [the couple’s] separation*” and urged Krystal to reconcile with Pope. VSB Ex. 24.

b. The August 29, 2019 email from this email address chastised Krystal for not reconciling with Pope, telling her she was committing “*a grave sin against God*,” and directing her to “*seek reconciliation with God and with your husband*.” The email further pronounced that she “*cannot receive Holy Communion while in the midst of this grave offense*.” VSB Ex. 25.

c. In the August 31, 2019 email Krystal received from this email address the impersonated Father Weinandy expressed that he was “*very disappointed to learn that after I reached out to you this week to explain the wrongfulness of your recent actions, ... you have taken out a protective order² against your husband*.” The impersonated Father Weinandy additionally warned that Pope “*informed me that he plans to press additional criminal charges against you and seek a protective order himself if you do not desist with your present course*.” VSB Ex. 26.

Later the same day in a text message to Matt, Pope forecasted that “*Father Weinandy is going to reach out to [Krystal] a final time with a dose of hard truth and then we just have to wait to see if she will do the right thing*.” VSB Ex. 63 at 699.

d. As Pope predicted, Krystal received a final email containing “*a dose of hard truth*” on September 4, 2019. The impersonated Father Weinandy berated Krystal for seeking legal protection and claimed that she had “*demonstrated a callous desire to publicly humiliate and destroy [her] husband by abusing the criminal justice system*.” The email again criticized her for not seeking to reconcile with Pope and threatened to “*personally contact [Krystal’s] bishop to initiate appropriate formal proceedings under canon law, which includes formal excommunication*.” It further commanded Krystal to “*refrain from attending public worship and participating in any sacrament, save reconciliation*.” VSB Ex. 28.

² This reference is to a temporary protective order Krystal obtained against Pope on August 28, 2019. See ¶14 below.

9. Matt also received an email from the “tweinandy.capcollegeweb@gmail.com” email address. The email, sent on August 31, 2019 at 9:03 pm, also purported to be from Father Weinandy. VSB Ex. 27. A few hours before the email arrived, Matt received a text message from Pope to let Matt know he would be hearing from Father Weinandy. Pope wrote:

Since you are the only person Krystal may listen to, Father Weinandy is going to reach out to you. He is in Rome, but he is going to try and correspond with you by email tonight to give you some guidance on how to approach Krystal.

VSB Ex. 63 at 699. As Pope predicted, an email impersonating Father Weinandy from the “tweinandy.capcollegeweb@gmail.com” email address arrived a few hours later. It asked for Matt’s help in convincing Krystal to withdraw the protective order she had obtained against Pope:

Regarding the protective order. I think you have to tell her that she should withdraw it. If she is not in any immediate harm, she is using it only as a means of revenge and punishment. Mr. Pope has also informed me that he can file a number of criminal charges against her ...

10. The real Father Weinandy confirmed that he sent none of the emails from the “tweinandy.capcollegeweb@gmail.com” address and that he has never counseled or otherwise communicated with Pope. The Board found Father Weinandy’s testimony to be credible and Pope offered no evidence to challenge its veracity.

11. A few days before she received the final email from the impersonated “Father Weinandy,” Krystal went to the Henrico County Police for assistance and, in their presence, used the “Google Recovery” program to determine if there was a telephone number linked to the “tweinandy.capcollegeweb@gmail.com” email address. Krystal took screen shots as she proceeded. VSB Ex. 29. The “Google Recovery” process revealed that the “tweinandy.capcollegeweb@gmail.com” email address was linked to Pope’s personal cell phone number. Pope has denied to the Bar investigator and to the Disciplinary Board that he sent any of the “Father Weinandy” emails. His denials are not credible.

12. Pope did admit that he concocted a string of emails that he sent to Matt on September 1, 2019 in an apparent effort to paint Krystal in a negative light. See ¶17 below.

13. Krystal received one other email, just two days before the protective order hearing, that also raised her suspicions about its authenticity. It purported to be from someone who claimed to be “helping to care for” Pope, identified as “Ariana B.” Krystal received the email on September 10, 2019, from the email address “ari.berry96@gmail.com.” VSB Ex. 32. It accused Krystal of engaging in “*terrible and demented treatment of [Pope],*” of not being a Christian, and of trying “*to destroy [Pope’s] life and career.*”

Krystal again used—the “Google Recovery” program, which confirmed that the “ari.berri96@gmail.com” email address was linked to Pope’s personal cell phone number. VSB Ex. 6 at 358. Although Pope has denied sending this email to Krystal, his denial is not credible.³

Pope’s Misrepresentations in Judicial Proceedings

14. Over the three months following their separation Pope’s communications with Krystal caused Krystal to become concerned for her safety and well-being. These communications included the threats contained in Pope’s fabricated emails impersonating Father Weinandy.

15. On August 28, 2019 Krystal obtained a two-week temporary protective order against Pope. The protective order prohibited Pope from having any contact with Krystal.

16. On August 31, 2019, about two weeks before a hearing on extending the protective order, Pope learned that Matt’s sympathies were not aligned with Pope. In a text message sent to Pope at 6:55 am Matt wrote:

Hey man. I talked with Krystal last night. She showed me why she got the order of protection. I am very disappointed in how you handled this whole situation.

³ Although Pope attempted to show that Krystal’s testimony was not worthy of belief, the Board found her testimony to be amply supported by the exhibits and corroborated by testimony of the other witnesses.

VSB Ex. 63 at 696. Pope did not welcome this news. Matt aptly summarized Pope's response to this development. Pope "*wanted to do whatever he could within his power and knowledge of the law to discredit Krystal and get this whole thing resolved so it doesn't look bad on him and somebody in his profession.*"

17. The following day, Pope began his campaign to discredit Krystal. Pope fabricated and then sent Matt an email string that contained what purported to be an anonymous complaint to Pope's law firm that said:

You should know that one of your scumbag attorneys just had a restraining order entered against him. His name is Joseph Pope. I'm taking this to the press.

VSB Ex. 34. The second email in the string Pope fabricated purports to be from Danny W. Jackson, the Executive Director of Williams Mullen, and it purports to forward the initial email – the anonymous complaint – to Pope. In the forwarding message to Pope the fabricated email from Jackson states:

Please see below. I'm going to have to contact our general counsel and media relations folks to make them aware of this. Please call me as soon as you can. We need to have a talk with Wyatt [Beazley, the firm's Chief Operating Officer] as soon as possible.

The final email in the string of emails is to Matt from Pope. It falsely accuses Krystal or her supporters of having sent the anonymous complaint to Pope's firm. In this email Pope writes:

Either Krystal, or one of her friends, or a family member sent this to my firm. I'm probably going to lose my job. Do not ever defend Krystal to me again.

Id.⁴

After sending the fabricated email string, Pope sent two more messages to Matt that day, again accusing Krystal of being behind the complaint and of trying to ruin Pope's career. VSB

⁴ Under cross-examination during his testimony before the Board, Pope admitted that he fabricated this email. By that point in the hearing Pope was in a quandary. Wyatt Beazley, the Chief Operating Officer of Williams Mullen, had testified that his firm had researched the firm's email server and confirmed that Jackson had not written or sent the email that Pope forwarded to Matt.

Ex. 63 at 699; VSB Ex. 36. Pope continued to advance the same falsehood in subsequent court proceedings and filings.

18. Pope swore out an affidavit to obtain a protective order against Krystal on September 3, 2019. VSB Ex. 65. The Henrico Juvenile & Domestic Relations District Court scheduled both Pope's and Krystal's protective orders to be considered in a hearing on September 12, 2019.

19. In preparation for the hearing, Pope drafted an affidavit for Matt that would undercut evidence showing that Pope had violated the protective order Krystal had obtained. VSB Ex. 54. Matt refused to sign the affidavit, characterizing it as containing lies.⁵ VSB Ex. 56. Undeterred by Matt's rejection, Pope sent three emails to Matt instructing him on how he should testify at the hearing. In his September 2, 2019 email to Matt, Pope stated:

You are also hereby commanded to have no further contact or discussions with the Petitioner [Krystal] or her counsel whatsoever regarding this matter and especially the subject of your testimony without first providing me express written notice.

VSB Ex. 42. Pope's direction to Matt in his September 8, 2019 email included: "*Do not discuss the subject of your testimony with the other party or anyone who may inform the other party of your testimony.*" VSB Ex. 58. In his September 9, 2019 email to Matt, Pope listed a "*brief synopsis of the facts*" and added, "*Just stick to these facts and keep your answers short.*" VSB Ex. 59. Matt was not represented by legal counsel.

20. Pope testified in the September 12, 2019 protective order hearing that Krystal had sent emails to Pope's law firm to try to get him fired:

COURT: What is it that makes you afraid of [Krystal] today for something that she did 10 months ago?

MR. POPE: Well, Your Honor, it's the ... there have been Emails that have been sent to my job. That's all I know, is there's Emails that have been sent to my job.

⁵ The Board found Matt's testimony to be credible and supported by the evidence.

VSB Ex. 14 at 566-567. The only evidence Pope had to support this testimony was the September 1, 2019 email string he had fabricated and sent to Matt to make it appear that Krystal was attempting to ruin his career.

In his testimony at the hearing, Pope also falsely denied that he had fabricated the emails impersonating Father Weinandy. VSB Ex. 14 at 576-577.

21. Pope was successful in obtaining a protective order at the September 12, 2019 hearing. The order Pope obtained prohibited Krystal from being within 100 feet of him.

22. On October 10, 2019, Pope sent an email to Krystal's attorney, Doris Causey, to advise her that Ronald Smiley – the father of Krystal's minor daughter – had engaged Williams Mullen to represent Smiley in what Pope's email characterized as the "*Smiley/Laviena Custody Dispute*." VSB Ex. 68. In fact, Williams Mullen had not been engaged by Smiley, nor was there a custody dispute between Krystal and Smiley as far as Krystal was aware. Smiley later confirmed that "*at no point*" did he understand that Pope or Williams Mullen would represent him. VSB Ex. 6 at 237. Pope's email to Doris Causey was very upsetting to Krystal. Pope acknowledged that Krystal's reaction was understandable.

Upon learning of the email, Krystal emailed Wyatt Beazley, the law firm's Chief Operating Officer, to ask for a meeting to find out if Williams Mullen was representing her daughter's father. VSB Ex. 69. Beazley met with Krystal in the law firm's lobby for a few minutes on October 14, 2019. Beazley requested Krystal to ask her lawyer, Doris Causey, to communicate with him and Krystal departed. Krystal had no contact with Pope during her lobby visit with Beazley. Beazley subsequently confirmed to Doris Causey that Williams Mullen did not represent Smiley.

23. Pope made three complaints to the police that Krystal had violated the protective order he had obtained. VSB Ex. 76, 77, and 81. On the basis of Pope's complaints, Krystal was

arrested on October 16, October 17, and November 4, 2019. Pope based two of his complaints (one to the Richmond City Police and the other to the Henrico County Police) on the same incident: Krystal's meeting with Beazley in the law firm lobby when she had no contact with Pope. Pope based his third complaint on his claim that he "saw [Krystal] at [Matt's] residence," and that Krystal "also had a birthday party there & was on the front porch of the house . . ." VSB Ex. 82. Pope alleged that she was within 100 feet of him. Krystal had to pay bail the first two times she was arrested and had to spend the night in jail after her third arrest.

24. In response to an emergency motion filed by Krystal's attorney, the Henrico Circuit Court amended the protective order on November 15, 2019, over Pope's objection. The amended order specifically stated that Krystal could continue to reside at 12144 Manor Walk Drive. Days later, at the request of the Commonwealth's Attorney, the Henrico County and City of Richmond Juvenile & Domestic Relations District Courts *nolle prossed* the arrest warrants Pope had obtained against Krystal. VSB Ex. 6 at 290, 292, and 294.

25. On November 15, 2019, following the Court's amendment of the protective order to allow Krystal to remain in her temporary home, Pope filed a Warrant in Debt against Krystal and Matt that asserted various causes of action for which Pope claimed damages of \$25,000.

In the Bill of Particulars Pope filed in support of the Warrant in Debt, Pope continued to advance the false narratives that he was not behind the emails impersonating Father Weinandy and that Krystal was attempting to ruin his career. For example, in support of his claim of malicious prosecution Pope alleged that Krystal had –

*made the contention that she was fearful for her safety because she had received messages that her behavior was contrary to the teachings of the Catholic Church and that she may be shunned as a result. She claimed these statements caused her fear of physical violence because she was a devout Catholic. **Even assuming [Pope] had sent the messages (he did not), ...***

VSB Ex. 90 at 779 (emphasis added).

Mischaracterizing Krystal's interaction with his law firm to further support his malicious prosecution claim, Pope also alleged:

On or about October 14, 2019, [Krystal] began calling and emailing [Pope's] employer in an attempt to smear him and harm his reputation. Her clear goal was to harass [Pope's] employer in an attempt to cause [Pope] to lose his job.

Id. at 785. Not only does this narrative misrepresent why Krystal communicated with his law firm's C.O.O., Wyatt Beazley, Pope's untruthful statement to Krystal's lawyer that his firm was representing her daughter's father is the sole reason Krystal communicated with Beazley at all.

26. Pope further perpetuated the same false narrative to support his motion to file a complaint under a pseudonym in a lawsuit he filed against Krystal in October 2020, styled "Larry J. David v. Krystal J. Laviena." VSB Ex. 109. In the motion Pope justified the need to protect his identity by claiming that Krystal "*and her enablers*" had "*contacted [Pope's] colleagues and co-workers for the purpose of smearing and embarrassing him.*" VSB Ex. 6 at 285.

Pope's Abuse of the Judicial System

27. Relying on false narratives, Pope had Krystal arrested on multiple occasions in October and November 2019 for violating the protective order he obtained against her. See ¶23 above. Pope also brought two civil actions against her in which he sought damages and injunctive relief. He also sued Matt and testified to this before the Henrico Circuit Court:

Q Now, Mr. Pope, you not only sued Ms. Laviena. You also sued her friend that she was – the home in which she lived, Matt Torruella, correct?

A Absolutely.

VSB Ex. 6 at 81.

28. He filed the first lawsuit on November 15, 2019, the same day the court amended the protective order against Krystal, overruling Pope's objections to the amendment. Pope sought

\$25,000 in damages in the Warrant in Debt he filed that day against Krystal and Matt. See ¶25 above. Eight months later Pope nonsuited the case, which resulted in its dismissal. VSB Ex. 108.

29. Pope filed his second lawsuit against Krystal in October 2020, under the pseudonym Larry J. David. See ¶26 above. He alleged Krystal had violated the Stored Communications Protection Act (18 U.S.C. § 2701, et seq.) when she attempted to determine who had created the emails impersonating Father Weinandy and “Ariana B.” Pope sought \$167,000 in damages and requested declaratory and injunctive relief to bar Krystal and others from using the information she had obtained in any legal proceeding. Id. Pope ultimately nonsuited the lawsuit under the terms of the Separation Agreement he and Krystal agreed to in their divorce case. VSB Ex. 117.

30. In a hearing on the appeal of both Pope and Krystal’s protective orders in the Henrico Circuit Court on October 20, 2020, Judge John Marshall reviewed Pope’s use of the judicial system against Krystal over the preceding months. The Judge expressed his outrage at Pope’s conduct:

THE COURT: He [Pope] is using the legal system to threaten people, Mr. Lockerman. I’m making that conclusive finding at this stage.

VSB Ex. 6 at 178.

Judge Marshall’s condemnation of Pope’s conduct also focused on the emails Pope fabricated. He described Pope’s use of them as “*emotional terrorism against*” Krystal. Id. at 261. Most concerning among the fabricated emails, Judge Marshall explained, “*is probably the one [Pope] created from the Catholic priest to Mr. Torruella [Matt] to basically tell Mr. Torruella you got to go sit [Krystal] down and tell her to drop [the] protective order.*” Id. at 261-262. Judge Marshall summarized his concerns about Pope’s conduct this way:

Knowing that his law license ... may be in play when [Pope] is creating all this stuff for this case, these false emails and so forth, ... is to try to get a current court proceeding dropped or dismissed by someone who is a victim in the case at the time. He is sending these emails purportedly from somebody else to try to get it all to go away. And now he's continued terrorism by lawsuit ... to continue to file these lawsuits against her. ... [T]here is no way he needs a protective order from her. But she definitely needs one from him. That's for certain.

Id. at 263. Judge Marshall entered a two-year protective order against Pope and on November 30, 2020, Judge Marshall forwarded the transcript of the October 26, 2020 hearing to the Bar for its review. VSB Ex. 5.

Pope's Efforts to Interfere with and Terminate Krystal's Bar Complaint

31. On October 29, 2020, three days after the hearing before Judge Marshall, Krystal filed her bar complaint against Pope. VSB Ex. 4. When Pope's response to the bar complaint was due, he asked Bar Counsel whether he would need to respond if Krystal withdrew her bar complaint. Bar Counsel advised Pope that a complaint cannot be dismissed solely based on the request of the complainant. Id. Despite this information, the Bar received a letter from Krystal shortly thereafter requesting to withdraw her bar complaint. VSB Ex. 10.

32. When Krystal's request failed to cause the dismissal of the bar complaint, Pope drafted and insisted on including language in the Settlement Agreement for his and Krystal's divorce case that he intended to operate to effectively shut down the bar complaint. The relevant language provided:

1.3. Release of Claims. Husband and Wife mutually agree to dismiss and dissolve any and all pending claims, causes of action, or criminal actions. The parties further agree to waive any and all claims or causes of action arising from conduct occurring from the date of marriage until the present. This shall include any claims or causes of action filed under a pseudonym. The parties agree to leave in place any final orders entered prior to the execution of this Agreement.

1.4. Withdrawal, Disclaimer and Retraction of Allegations. Wife hereby withdraws, disclaims, and retracts any and all past, present, and future claims and allegations that during the marriage Husband engaged in any wrongful or criminal acts,

including, but not limited to, domestic or family abuse, solicitation of prostitutes, violations of court orders, ethical misconduct, and fraud, including identity theft with the intent to defraud, and any claim or allegation that Husband at any time defrauded or attempted to defraud her, or intended to defraud her. ...This full withdrawal, disclaimer, and retraction of all allegations shall be binding on the parties in any and all proceedings and given estoppel effect.

1.5. Agreement to Resolve Outstanding Litigation. For their personal, financial, mental, and psychological health, **Wife and Husband hereby and without reservation state for all purposes that they wish all civil, criminal, or administrative proceedings pending against the other to be immediately and forever dismissed** so that they can move on with their lives separately and apart and without any further harm being caused to the other. The parties hereby state their wish without reservation for all proceedings to end as quickly as possible. ...

VSb Ex. 117 (emphasis added).

33. To ensure that the Separation Agreement included this limiting language, Pope falsely claimed to his divorce attorney, Suzette Hutchens, that Bar Counsel wanted the language “*to get rid of the complaint.*” VSb Ex. 116.

II. Nature of Misconduct

The Board found Pope’s conduct to constitute misconduct in violation of the following provisions of the Rules of Professional Conduct:

Rule 3.1 Meritorious Claims And Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

Pope violated Rule 3.1 by reporting Krystal to the police three times for violating the protective order. Pope based two of these reports on his false claim that Krystal’s visit to his law firm’s lobby, where she had no contact with Pope, violated the terms of the protective order. Pope

used this false story to report her both to the Richmond City Police and to the Henrico County Police, resulting in two separate arrests.

Pope perpetuated this false narrative in his motion to file under a pseudonym. The narrative was manufactured by Pope and had no basis in fact.

The basis for Pope's third report to the police was essentially that Pope could see Krystal at the house where she had been temporarily residing since their separation. While there was conflicting evidence as to the actual distance between the two houses, it is apparent that Krystal was doing nothing other than continuing to reside where she had been residing on the day the protective order was entered. Pope's complaint to the police resulting in her third arrest and jail time was frivolous and without merit.

Rule 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal; ...

Pope violated Rule 3.3(a)(1) in his testimony at hearings concerning the protective order against Krystal, in the affidavits he submitted to obtain the protective order, in his filed pleading opposing a modification of the protective order, in the Bill of Particulars he filed in support of his Warrant in Debt against Krystal and Matt, and in the Motion Under Seal to File Complaint Under Pseudonym, which Pope filed in the pseudonymous lawsuit he brought against Krystal.

In these court filings and proceedings Pope denied that he had fabricated the "Father Weinandy" and "Ariana B." emails through which he impersonated a Catholic priest and a health care giver in an attempt to manipulate Krystal with statements that she was un-Christian and trying to ruin Pope's career, that she was engaging in sin, that taking out a protective order against Pope

was wrongful, and that Pope would press criminal charges against her if she did not withdraw the protective order.

Pope also perpetuated the false narrative in these court proceedings that Krystal had emailed Pope's law firm and had visited the law firm in an effort to ruin his career or get him fired. The email in question – containing the anonymous complaint – had been created by Pope himself. Krystal's visit to the law firm was for the sole purpose of verifying that the firm was not representing her daughter's father against Krystal, as Pope had falsely claimed in an email to Krystal's lawyer. Knowing these claims to be false, Pope perpetuated these untruths to the Henrico Juvenile & Domestic Relations District Court, the Richmond Juvenile & Domestic Relations District Court, the Henrico General District Court, the Henrico Circuit Court, and to the Disciplinary Board.

Rule 4.3 Dealing With Unrepresented Persons

...

(b) A lawyer shall not give advice to a person who is not represented by a lawyer, other than the advice sent to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interest of the client.

Pope violated Rule 4.3(b) when he gave advice to Matt, who was not represented by legal counsel, at a time when Matt's interests were or were reasonably likely to be in conflict with Pope's interests. Pope's advice included emails directing Matt not to communicate with Krystal or her attorney and directing him not to discuss the subject of his testimony with Krystal "*or anyone who may inform [Krystal] of your testimony.*" After providing Matt a synopsis of facts, Pope admonished Matt in an email to "*stick to these facts and keep your answers short.*" Pope knew when he sent these emails that Matt was "*very disappointed in how [Pope] handled this whole situation*" that led to Krystal obtaining a protective order, and Pope knew that Matt had refused to

sign the affidavit Pope had drafted for him because Matt felt that it contained lies. Accordingly, it was apparent that Matt's interests were likely to be in conflict with those of Pope.⁶

Rule 8.1 Bar Admission and Disciplinary Matters

... [A] lawyer already admitted to the bar, ... in connection with a disciplinary matter, shall not:

(a) knowingly make a false statement of material fact;

...

(d) obstruct a lawful investigation by an admissions or disciplinary authority.

Pope violated Rule 8.1(a) when, in his interview with the Bar's investigator and in his testimony before the Board in this proceeding, Pope denied having fabricated and sent the emails impersonating Father Weinandy and "Ariana B." to Krystal and to Matt. He further violated Rule 8.1(a) when in his "Preliminary Answer" filed in response to the Bar complaint and in his interview with the Bar's investigator, Pope denied "*any allegation that he fraudulently represented that his law firm was representing Mr. Ronald Smiley.*"

Pope violated Rule 8.1(d) by using the Separation Agreement in his divorce case to obtain Krystal's withdrawal, disclaimer, and retraction of her Bar complaint against him, and to estop Krystal from using the allegations of her Bar complaint against Pope.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

...

⁶ Pope was representing himself when he provided this advice to Matt. Whether a lawyer is acting on behalf of another or on behalf of himself, the Rules of Professional Conduct apply. "*It would be a manifest absurdity and a distortion of these Rules if a lawyer representing himself commits an act that violates the Rules but is able to escape accountability for such violation solely because the lawyer is representing himself.*" Barrett v. State Bar ex rel. Second District, 675 S.E.2d 827, 277 Va. 412 (2009).

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

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

Pope violated Rule 8.4(b) and (c) when he created and used the emails impersonating Father Weinandy and others to manipulate and threaten Krystal and create false narratives about her. His fabricated emails impersonating Father Weinandy preyed on Krystal's religious faith to guilt her into reconciling with Pope and into withdrawing her protective order against him. Pope used the fabricated emails he sent on August 31, 2019, impersonating Father Weinandy, to warn Krystal that Pope would press criminal charges if she did not withdraw her protective order, and to direct Matt to tell Krystal to withdraw the protective order because Pope "*can file a number of criminal charges against her.*" Pope used the fabricated email string with the bogus anonymous complaint to his law firm to invent a narrative that Krystal was trying to get him fired and ruin his career. He further perpetuated that false narrative in other communications with Matt and in representations Pope made in court and court filings.

Pope further violated Rule 8.4(b) and (c) when he reported Krystal for violating the protective order when the bases for his reports – that Pope saw her outside her temporary residence and that she had appeared in the lobby of his law firm, where she had no contact with Pope – were flimsy excuses he put forth to use the legal system to threaten and intimidate Krystal.

Pope also violated Rule 8.4(b) and (c) when he directed how Matt should testify and with whom Matt could communicate concerning his testimony in connection with the protective order hearing of September 12, 2019.

The Board found no violation of Rule 3.3(a)(4).

SANCTION

The Board considered the evidence presented and argument of the parties as to the appropriate sanction to be imposed upon the findings of the Rules of Professional Conduct violations recited above, including aggravating and mitigating factors. A certification of Respondent's disciplinary record in Virginia, VSB Ex. 124, reported that Pope had no prior disciplinary history and was admitted into evidence.

DISPOSITION

In its closing argument, Bar counsel proposed as an appropriate sanction the revocation of Respondent's license. Pope declined to offer any statement regarding an appropriate sanction.

After considering the evidence, the findings of misconduct, and the argument of Bar Counsel, the Board recessed to deliberate. The Board was guided by Standard 5.1(b) of the Annotated Standards for Imposing Lawyer Sanctions, Second Edition (ABA 2019). This standard provides that revocation is generally appropriate when “*a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.*”

The Board considered as aggravating factors (1) Pope's dishonest or selfish motives (2) his pattern of misconduct, (3) his multiple offenses, (4) his bad faith obstruction of the disciplinary process, (5) his submission of false evidence, false statements, or other deceptive practices during the disciplinary process, (6) his refusal to acknowledge the wrongful nature of his conduct, (7) the vulnerability of his victim, Krystal Laviena, and (8) Pope's considerable experience, having been licensed to practice law in the Commonwealth of Virginia since 2005.

The absence of a prior disciplinary record was the only mitigating factor applicable in this matter.

After due deliberation, the Board reconvened and announced its decision as follows:

It is **ORDERED** that Respondent's license to practice law in the Commonwealth of Virginia be REVOKED, effective July 15, 2022.

It is further **ORDERED** that, as directed in the Board's July 15, 2022 Summary Order in this matter, Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the *Rules*. Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. Respondent shall give such notice immediately and in no event later than within 14 days of the effective date of the revocation, July 15, 2022, and make such arrangements as are required herein as soon as is practicable and in no event later than within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Clerk within 60 days of the effective date of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further **ORDERED** that if Respondent is not handling any client matters on the effective date of July 15, 2022, Respondent shall submit an affidavit to that effect to the Clerk within 60 days of the effective date of the revocation. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of Paragraph 13-29.

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

It is further **ORDERED** that the Clerk shall mail an attested copy of this Memorandum Order of Revocation to Respondent by electronic mail and by certified mail, return receipt requested, to his last address of record with the Virginia State Bar, at 12136 Manor Walk Drive, Glen Allen, Virginia 23059; and a copy by electronic mail to Renu M. Brennan, Bar Counsel.

ENTERED this 17 day of August 2022

VIRGINIA STATE BAR DISCIPLINARY BOARD

A handwritten signature in dark ink, appearing to read "Steven B. Novey", is written over a horizontal line.

Steven B. Novey, Second Vice Chair