

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
JOHN WEBER, III

VS B Docket No. 21-080-121138

MEMORANDUM ORDER

I. INTRODUCTION

THIS MATTER CAME TO BE HEARD on December 17, 2021, before a panel of the Virginia State Bar Disciplinary Board (“the Board”) consisting of Steven Novey, Esq. (“the Chair”), Yvonne S. Gibney, Esq., Alexander Simon, Esq., Kamala H. Lannetti, Esq., and Nancy Bloom, Lay Member. The Virginia State Bar (“the VSB”) was represented by Renu Brennan, Esq. (“Bar Counsel”). The Respondent, John Weber, III, Esq., (“the Respondent”), was present and represented by Anthony Franklin Anderson, Esq., and John Eric Lichtenstein, Esq.; Jacquelin Gregory-Longmire, RPR, court reporter, Chandler & Halasz, Inc., P.O. Box 9349, Richmond, VA 23227, (804) 730-1222, after being duly sworn, reported the proceedings.

At the outset of the hearing, the Chair inquired of the members of the Board whether any of them had any personal or financial interest or bias which would preclude him or her from fairly hearing this matter and serving on the Board. All members of the Board responded in the negative.

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

II. MISCONDUCT PHASE

Prior to the proceedings and at the final Prehearing Conference, VSB Exhibits 1-4, 6-8, and 11-19 were admitted in evidence by the Chair, without objection from the Respondent. VSB Exhibit 5 was

not admitted. VSB Exhibits 9-10, 21, 24, and 27 were taken under advisement pending witness testimony. VSB Exhibit 22 was withdrawn and VSB Exhibit 23 was withdrawn except for Attachment B. No ruling was made on VSB Exhibit 25. Respondent's Exhibits 1-12, 14-15 were also admitted without objection from the VSB. Respondent's Exhibit 13 was admitted over objection. During the hearing, the Board accepted into evidence the following: VSB Exhibits 8, 20, 21, 22 with certain redactions, 24, and 26; Respondent's Exhibits 16 and 17.

The Board then heard opening argument by Bar Counsel and Respondent's counsel. The Board then received the exhibits introduced in evidence, and heard testimony. At the conclusion of the VSB's evidence, the Respondent made a Motion to Strike, which was denied. At the conclusion of all of the evidence presented, the Respondent renewed his Motion to Strike, which was also Denied. Closing arguments were then made by counsel. The Board then retired to deliberate. After doing so, the Board determined by majority vote that the Bar had not proved violations of Rule 1.7 or Rule 8.4 of the Rules of Professional Conduct ("the Rules") by clear and convincing evidence, and accordingly **DISMISSED** all allegations of misconduct in VSB Docket No. 21-080-121138.

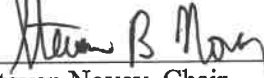
III. CONCLUSION

It is ORDERED that the Clerk shall forward an attested copy of this Order to the Respondent, John Weber, III, 146 S. Oakwood Road, Troutville VA 24175, by certified mail, return receipt requested; and to John E. Lichtenstein, Esq., Lichtenstein Law Group PLC, 347 Highland Avenue, P.O. Box 61, Roanoke, VA 24004, and Anthony F. Anderson, Esq., Anderson Legal, 1102 Second Street, S.W., P.O. Box 1535, Roanoke, VA 24007, counsel for Respondent; and by hand delivery to Renu Brennan, Esq., Bar Counsel, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

This Order is final.

ENTERED THIS 30 day of December 2021.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Steven Novey, Chair

Dissent:

When the accuser is a heroin addict who has repeatedly fabricated stories to obtain money to support her habit, it is tempting to dismiss her accusations as just one more falsehood. But just as her accusations may be false, so too might they be true. As factfinders, our role requires us to evaluate all the evidence to determine whether, under the clear and convincing standard, it supports the charges against the Respondent. The evidence presented in this matter, in my view, amply supports a finding that Mr. Weber violated Rule 1.7 of the Rules of Professional Conduct as charged in the Certification.

Molly Owens, an unemployed twenty-two-year-old addict, retained Mr. Weber to represent her in 2013 and 2014 on a number of traffic offenses, assault and battery charges, destruction of property charges, and potential felony drug offenses. Mr. Weber's former law firm's records reflect that Ms. Owens paid no more than \$500 for Mr. Weber's representation of her on all these matters. Ms. Owens claims that he provided his services to her in exchange for a sexual relationship with her that continued while he represented her. Mr. Weber denies the sexual relationship but admits that during the representation he paid for a hotel room where he met Ms. Owens alone and that he also met with Ms. Owens alone at her mother's home on at least two occasions. Ms. Owens did not report the sexual relationship to anyone at the time. She was worried about how she would pay Mr. Weber's fees and she wanted to stay out of jail.

In 2018, when she became aware that Mr. Weber had become a judge, Ms. Owens contacted him to ask him for money. Through text messages she cajoled him initially with "outlandish" stories about why she needed money, but soon began pressuring him with threats that she would report their sexual relationship to the authorities. She told him she had an old phone that contained documentation of that relationship. It is Mr. Weber's response to Ms. Owens' threat

of exposure that makes her accusations of their sexual relationship in 2013 and 2014 convincingly credible. More than 4,000 text messages between Ms. Owens and Ms. Weber lay bare his desperate and extraordinary efforts to avoid exposure.

Over the course of seven months between December 2018 and July 2019, in response to Ms. Owens' demands for money, Mr. Weber made 32 payments to or on behalf of Ms. Owens totaling \$22,083.30. Records of Mr. Weber's PayPal accounts document each payment. His payments abruptly ended the day he convinced Ms. Owens to meet him in a park to give him her old phone, something he repeatedly asked her to do in the preceding months.¹ When she handed him the phone that day, he destroyed it, then asked her to delete certain messages and addresses from her current phone, and paid her \$1,000. Mr. Weber admits this.

Although in his text messages he threatened to contact his attorneys and repeatedly accused Ms. Owens of extortion, Mr. Weber never contacted anyone about her demands for payment. He never contacted an attorney or law enforcement despite his expressed concern for his and his family's safety. Instead, it was Ms. Owens – not Mr. Weber – who contacted law enforcement eight months after her meeting with Mr. Weber in the park. It was Ms. Owens who reported the sexual relationship with her former attorney and the more than \$20,000 Mr. Weber had paid her not to go public with her accusations. When Ms. Owens came forward, she did so at the risk of being charged with extortion. She had nothing to gain – and much to lose – by sharing her story.

¹ For example, in a text message to Ms. Owens on February 24, 2019 Mr. Weber wrote: "I will also meet you and you give that crappy phone you said you kept too." On March 3, 2019, he wrote, "I will meet you at Walmart and you can give me the phone I can help you with 100 for groceries." On June 8, 2019, he wrote: "If you are serious then tell your mom to get your phone that you say she has and bring it. I'll look at it and then talk about what you say you needed." On July 13, 2019, Mr. Weber wrote: "I will meet you and you will give me the phone you said months ago. I will give you money for your extortion but banks are closed today."

The evidence clearly and convincingly demonstrates that Mr. Weber engaged in a sexual relationship with Ms. Owens while he was representing her. Citing Rule 1.7(a)(2) and Comment [10], Legal Ethics Opinion 1853² states:

A lawyer involved in a sexual relationship with a client risks compromising [the lawyer's professional] judgment because of personal interests. ...When [a sexual] relationship with a client begins during the attorney-client relationship, the lawyer's ability to be impartial and objective is impaired. When the lawyer's interests interfere with decisions that must be made for the client, the representation is impaired.

LEO 1853 further explains that Rule 1.7(a)(2) “reflect[s] the fundamental fiduciary obligation of a lawyer not to exploit a client’s trust for the lawyer’s benefit, which implies that the lawyer should not abuse the client’s trust by taking sexual or emotional advantage of a client.” The LEO adds that for clients who feel particularly dependent on their lawyers, such as clients involved in criminal matters, “the more heightened becomes the lawyer’s fiduciary obligation to avoid any improper relationship with the client.” By engaging in a sexual relationship with Ms. Owens during his representation of her and while she was unemployed, drug addicted, and facing multiple criminal charges, Mr. Weber exploited her trust by taking sexual advantage of her and significantly risked compromising his professional judgment because of his personal interests, a “concurrent conflict of interest” in violation of Rule 1.7(a)(2).

For these reasons, I dissent from the decision of the Board.

Yvonne S.
Gibney

Yvonne S. Gibney
Board Member

Digitally signed by Yvonne S.
Gibney
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² Opinion adopted December 29, 2009.