

VIRGINIA:

BEFORE THE SECOND DISTRICT, SECTION II COMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
BRANDON HARVEY ZEIGLER

VSB Docket No. 23-022-129221

DISTRICT COMMITTEE DETERMINATION
(PUBLIC ADMONITION WITHOUT TERMS)

On September 9, 2024, a meeting was held in this matter before a duly convened Second District, Section II Committee consisting of Aaron Kass, Chair Presiding; Nancy Parr, Arthur Bredemeyer, and Ann Brogan, Members; and Ann Templeman, Lay Member. During the meeting, the Second District, Section II Committee voted to approve an agreed disposition for a Public Admonition without Terms pursuant to Part 6, § IV, ¶ 13-7.A.9 of the Rules of Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, Seth T. Shelley, Assistant Bar Counsel; Brandon Harvey Zeigler (“Respondent”); and Mary T. Morgan, counsel for Respondent.

WHEREFORE, the Second District, Section II Committee of the Virginia State Bar hereby serves upon Respondent the following Public Admonition without Terms:

I. FINDINGS OF FACT

1. Respondent was admitted to the Virginia State Bar (“VSB”) in 1996. At all relevant times, Respondent was a member of the VSB.
2. Oluwanishola Bashuron (formerly Asenuga) (“Complainant”) retained Respondent in November 2021 to represent her in a divorce. Complainant paid an initial advanced legal fee¹ of \$10,000.00. Respondent asserted that he informed Complainant that the cost of the representation could be more than the initial fee.
3. Complainant owned a commercial building at 91 East Mercury Boulevard in Hampton, Virginia, which was marital property.

¹ The written fee agreement described the fee as a “retainer.” Respondent drew from these funds as he completed work on the matter.

4. In mid-March 2022, Complainant received an invoice from Respondent. Complainant requested that she be placed on a payment plan with the firm.
5. In mid-April 2022, Complainant's outstanding bill exceeded \$50,000.00. On April 19, 2022, Complainant discussed with Respondent her desire to sell her business and the building at 91 East Mercury Boulevard. Respondent suggested that Complainant sign a Deed of Trust and Note on the property to pay her legal fee to the firm.²
6. On April 25, 2022, Respondent's paralegal emailed Complainant regarding listing the property at 91 East Mercury Boulevard. The paralegal instructed Complainant that they would "need to wait until [a] consent order is prepared as the current court order prohibits either party from disposing of any marital assets."
7. On May 5, 2022, Respondent filed a Motion to Sell Marital Assets. The motion included a request for permission to sell the property located at 91 East Mercury Boulevard.
8. On May 12, 2022, Respondent and Complainant discussed the marital assets. Notes from an invoice indicate that Respondent informed Complainant "again that the commercial property is marital regardless of the fact that it was put into a revocable trust during the marriage." Respondent explained that the property "was purchased with marital funds and marital debt."
9. On May 19, 2022, Respondent and a paralegal met "regarding preparation of deed of trust."
10. In late May or early June 2022, Respondent contacted Brett Thompson ("Thompson") of Thompson Law Group to inquire about a Deed of Trust on the property at 91 East Mercury Boulevard.
11. On June 14, 2022, a paralegal at Respondent's firm emailed Thompson to "follow up" on the phone call from Respondent "several weeks ago regarding preparation of a credit line deed." The paralegal wrote that "[Respondent] needs a credit line deed of trust between client, Oluwanishola Asenuga, and Parks Zeigler, PLLC for \$100,000.00 at 18% interest for the property located at 91 E Mercury Boulevard, Hampton, Virginia."
12. On June 22, 2022, Thompson drafted a Deed of Trust and Promissory Note and emailed the documents to Respondent and two paralegals at Respondent's firm.

² Va. LEO 1390 explains that an attorney may not acquire an interest in marital property through a Deed of Trust because such an arrangement "would give the lawyer a proprietary interest in the divorce action and inappropriately interject the lawyer's interests into the issues of the case." See Virginia State Bar Standing Comm. on Legal Ethics, Legal Ethics Op. 1390: Domestic Relations--Acquiring Proprietary Interest In Litigation: Attorney Taking Deed of Trust on Marital Home to Secure Note for Legal Fees (1991).

13. On June 29, 2022, Respondent's paralegal and Complainant exchanged emails regarding the "deed of trust and note." The paralegal requested that Complainant sign the documents by July 1, 2022.
14. On July 1, 2022, Respondent sent a letter to Complainant stating that for his firm to "continue to represent you," Respondent needed "the signed Deed of Trust and Note in my office" by 5 p.m. on July 5, 2022.
15. On July 5, 2022, Complainant contacted Respondent and informed him that she would not sign the Deed of Trust. Complainant terminated the representation.
16. On July 8, 2022, Respondent emailed Complainant and demanded that she enter into a payment plan with his firm to pay the outstanding balance by December 15, 2022 and make an initial payment of at least \$5,000.00 prior to July 15, 2022.
17. On July 15, 2022, Respondent was permitted to withdraw from representing Complainant.
18. On August 29, 2022, Respondent filed a Complaint in Virginia Beach Circuit Court against Complainant. Respondent requested judgment in the amount of \$49,427.42, Complainant's outstanding balance.
19. On December 10, 2022, a default judgment order was entered against Complainant in Respondent's collections case after Complainant failed to file a responsive pleading.
20. When interviewed as part of the Bar's investigation, Complainant stated she did not understand the Deed of Trust. Complainant said she had a Judge Advocate General ("JAG") review it and Complainant was advised to seek further legal advice.³ Complainant stated she considered Respondent's proposal regarding the Deed of Trust because she was concerned that Respondent would withdraw from the representation.

II. NATURE OF MISCONDUCT

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

By attempting to acquire a proprietary interest through a Deed of Trust on a property that was marital property while representing a client in a divorce, Respondent violated the following Rules of Professional Conduct:

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

³ Complainant is a retired military member.

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

* * *

RULE 1.8 Conflict of Interest: Prohibited Transactions

* * *

- (j) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:
- (1) acquire a lien granted by law to secure the lawyer's fee or expenses; and
 - (2) contract with a client for a reasonable contingent fee in a civil case, unless prohibited by Rule 1.5.

III. PUBLIC ADMONITION WITHOUT TERMS

Accordingly, having approved the agreed disposition, it is the decision of the District Committee to impose a Public Admonition without Terms.

Pursuant to Part 6, § IV, ¶ 13-9.E of the Rules of Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

Entered this 9th day of September, 2024.

SECOND DISTRICT, SECTION II COMMITTEE
OF THE VIRGINIA STATE BAR



Aaron Kass
Chair

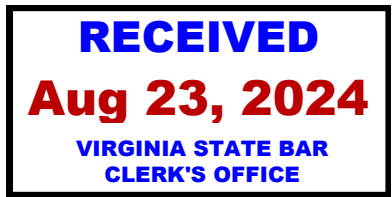


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Joanne "Jo" Fronfelter



Clerk of the Disciplinary System
Virginia State Bar



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BEFORE THE SECOND DISTRICT, SECTION II COMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
BRANDON HARVEY ZEIGLER

VSB Docket No. 23-022-129221

AGREED DISPOSITION
PUBLIC ADMONITION WITHOUT TERMS

Pursuant to the Rules of Supreme Court of Virginia, Part 6, § IV, ¶ 13-7.A.9, the Virginia State Bar, by Seth T. Shelley, Assistant Bar Counsel; Brandon Harvey Zeigler, Esq. (“Respondent”); and Respondent’s counsel, Mary T. Morgan, enter into the following Agreed Disposition for a Public Admonition without Terms arising out of this matter.

I. STIPULATIONS OF FACT

1. Respondent was admitted to the Virginia State Bar (“VSB”) in 1996. At all relevant times, Respondent was a member of the VSB.
2. Oluwanishola Bashuron (formerly Asenuga) (“Complainant”) retained Respondent in November 2021 to represent her in a divorce. Complainant paid an initial advanced legal fee¹ of \$10,000.00. Respondent asserted that he informed Complainant that the cost of the representation could be more than the initial fee.
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² Va. LEO 1390 explains that an attorney may not acquire an interest in marital property through a Deed of Trust because such an arrangement “would give the lawyer a proprietary interest in the divorce action and inappropriately interject the lawyer's interests into the issues of the case.” See Virginia State Bar Standing Comm. on Legal Ethics, Legal Ethics Op. 1390: Domestic

6. On April 25, 2022, Respondent's paralegal emailed Complainant regarding listing the property at 91 East Mercury Boulevard. The paralegal instructed Complainant that they would "need to wait until [a] consent order is prepared as the current court order prohibits either party from disposing of any marital assets."
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II. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:⁴

By attempting to acquire a proprietary interest through a Deed of Trust on a property that was marital property while representing a client in a divorce, Respondent violated the following Rules of Professional Conduct:

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It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

* * *

RULE 1.8 Conflict of Interest: Prohibited Transactions

* * *

³ Complainant is a retired military member.

⁴ Italicized language is for explanatory purposes only.

- (j) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:
- (1) acquire a lien granted by law to secure the lawyer's fee or expenses; and
 - (2) contract with a client for a reasonable contingent fee in a civil case, unless prohibited by Rule 1.5.

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel, Respondent, and Respondent's counsel tender to the Second District, Section II Committee for its approval the Agreed Disposition of a Public Admonition without Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Second District, Section II Committee.

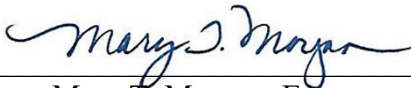
If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs.

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

THE VIRGINIA STATE BAR



Seth T. Shelley, Esq.
Assistant Bar Counsel



Mary T. Morgan, Esq.
Respondent's counsel



Brandon Harvey Zeigler, Esq.
Respondent