

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
SHENA DIXON MASON**

**VS. DOCKET NO. 22-070-124601**

**AGREED DISPOSITION MEMORANDUM ORDER  
(SUSPENSION FOR ONE YEAR AND ONE DAY WITH TERMS)**

On Tuesday, October 4, 2022, this matter was heard, telephonically, by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by Part 6, Section IV, Paragraph 13-6.H of the Rules of the Supreme Court of Virginia. The panel consisted of Kamala H. Lannetti, Chair, Alison G. M. Martin, Jennifer D. Royer, Alexander Simon, and Tammy D. Stephenson, Lay Member. The Virginia State Bar was represented by Renu M. Brennan, Bar Counsel. Shena Dixon Mason was present and was not represented by counsel. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter Lisa A. Wright, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, the Certification, Respondent's Response to Certification, Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation, the Disciplinary Board rejected the six month suspension and stated the terms were acceptable. The parties discussed and agreed to an alternative sanction of one year and one day, which the Board accepted.

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition and the Respondent shall receive a Suspension for One Year and One Day with Terms, as set forth in the Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective October 4, 2022.

It is further **ORDERED** that:

The Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail of the Suspension of her license to practice law in the Commonwealth of Virginia, to all clients for whom she is currently handling matters and to all opposing Attorneys and presiding Judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in her care in conformity with the wishes of her clients. The Respondent shall give such notice immediately and in no event later than 14 days of the effective date of the Suspension, and make such arrangements as are required herein as soon as is practicable and in no event later than 45 days of the effective date of the Suspension. The Respondent shall also furnish proof to the Clerk of the Disciplinary System of the Virginia State Bar within 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 the Respondent is not handling any client matters on the effective date of the Suspension, she shall submit an affidavit to that effect within 60 days of the effective date of the Revocation or Suspension to the Clerk of the Disciplinary System at the Virginia State Bar. The Board shall decide all issues concerning the adequacy of the notice and arrangements required herein. The burden of proof shall be on the Respondent to show compliance. If the 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.

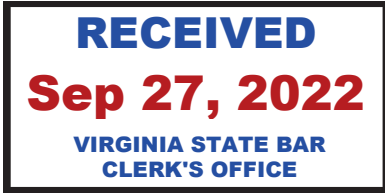
The Clerk of the Disciplinary System shall assess costs pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules.

It is further **ORDERED** that an attested copy of this Order be mailed to the Respondent by electronic, regular first-class and certified mail, return receipt requested, at her last address of record with the Virginia State Bar at Shena Dixon Mason PLLC, 1141 Keokuk Terrace N.E., Leesburg, VA 20176, and a copy by electronic mail to Renu M. Brennan, Bar Counsel.

Enter this Order this 4<sup>th</sup> day of October, 2022

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
Kamala H. Lannetti  
2<sup>nd</sup> Vice Chair



VIRGINIA:

**BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF  
SHENA DIXON MASON**

**VS B Docket No. 22-070-124601**

**AGREED DISPOSITION  
SIX-MONTH SUSPENSION WITH TERMS**

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Renu M. Brennan, Bar Counsel and Shena Dixon Mason, Respondent, hereby enter into the following Agreed Disposition for a Six-Month Suspension with Terms arising out of the referenced matter.

**I. STIPULATIONS OF FACT**

1. Respondent was admitted to the Virginia State Bar (“VSB”) in 1997. At all relevant times, Respondent was a member of the VSB.

**RESPONDENT’S PRACTICE**

2. Respondent has been in practice for 25 years. Respondent “has had a general practice and handles a multitude of things.”
3. In her 25 years in practice, Respondent has never had a trust account. Respondent maintains all money received from clients has been earned when received.
4. Respondent is licensed only in Virginia. Respondent’s practice address is in Pennsylvania with a P.O. Box Office in Loudoun County, Virginia. Respondent states that she and her contract worker staff “work seasonally and remotely... Over the past six years I have closed my practice during the Spring and Summer months and began taking clients again early Fall through the next season.”

**CONCURRENT REPRESENTATION OF ADVERSE CLIENTS AND HISTORY  
OF RELATIONSHIPS**

5. Respondent met Husband and Wife over a decade ago when Respondent represented Wife in Wife's divorce "as [Wife] fell in love with Husband and decided to dissolve [Wife's] marriage for Husband."
6. Respondent also represented Husband "on multiple traffic matters over the past 10+years."
7. In 2018, Husband and Wife separated. Husband began a relationship with his girlfriend, who Respondent also knew. Husband's girlfriend "was a local contestant winner in the Mrs. United States pageant the year [Respondent] produced the pageant as an event promoter." Husband had messaged girlfriend from Respondent's pageant website after the competition, after which the two started a relationship.
8. As set forth, Respondent also represented Husband's girlfriend in girlfriend's divorce from girlfriend's husband.

**HUSBAND'S OCTOBER 25, 2020 CONSULTATION WITH RESPONDENT**

9. On October 25, 2020, Husband consulted with Respondent regarding representation in an outstanding traffic matter and paid Respondent a \$50.00 consultation fee.
10. Respondent had a Zoom meeting with Husband about Husband's traffic case in Winchester.
11. On the prior day, October 24, 2020, Husband completed a consultation form and provided Husband's address to Respondent.

**RESPONDENT’S CONTINUING LEGAL REPRESENTATION OF HUSBAND  
AFTER OCTOBER 25, 2020 AND BEFORE REPRESENTATION OF WIFE**

12. In the course of Husband’s continuing attorney-client relationship with Respondent, Husband shared information with Respondent regarding “his immigration status and [Winchester traffic] case. [Respondent] would assist and charge phone consultation fees.” Husband sought advice about “obtaining his driver’s license and his traffic matter in Winchester.”
13. Husband’s girlfriend also “ask[ed] [Respondent] to represent her in her divorce and asked questions on several occasions about her child custody and visitation situation, all of which were charged as consultation fees.”

14. According to Respondent:

I saw [Husband] in 2021 and he introduced a woman as his girlfriend because she had competed in a pageant that I directed.

The girlfriend, [Husband], and I exchanged phone numbers. During this time, [Husband] and his girlfriend would text, call and ask questions about matters such as obtaining his driver’s license and his traffic matter in Winchester and would share information about his immigration status and case. I would assist and charge phone consultation fees. I never placed questions about his marital situation. The girlfriend did ask me to represent her in her divorce and asked questions on several occasions about her child custody and visitation situation, all of which were charged as consultation fees.

**RESPONDENT’S REPRESENTATION OF WIFE IN DIVORCE FROM HUSBAND  
BEGINNING FEBRUARY 2021 AND FAILURE TO PRESERVE WIFE’S ADVANCE  
FEE**

15. By text dated February 23, 2021, Wife asked Respondent “for some legal help concerning divorce” and provided her phone number.
16. Respondent immediately agreed to seek divorce by publication:  

[Wife] said that [Husband] left her and was on social media with his girlfriend. She also said that she did not know where he was, only that he dropped her off at home one night after picking her up from work and he never returned. She said that when she looked in the closet, his clothes were gone. She also mentioned that she did not know where he moved to or currently lived.

I agreed to file the no contest, publication divorce on her behalf, with her submitting affidavits that she did not know where he was.

17. Respondent's notes of her February 23 call with Wife state:  
  
... They both have moved on. She wants a divorce and he will not give her one. She has new boyfriend new baby wants the divorce and is sick of [Husband] throwing it in her face on social media. Her information is the same from last divorce. I told her I saw them at Sally's beauty supply I had not seen him since her divorce and he is not at Church anymore. She is good pull paperwork and start process. CM Divorce six month separation she's gonna try to reach him to get his signature. Prep for publication as well she thinks he a no show.
18. By email dated February 25, 2021, Respondent asked Wife to complete a consultation form to "build the non-contested divorce filing by publication on your behalf."
19. On February 26, 2021, Respondent and Wife entered into a Statement of Engagement for Respondent to represent Wife in the drafting and filing of an uncontested divorce from Husband for a flat fee of \$500.00.
20. On February 26, 2021, Wife paid Respondent \$500.00 by Zelle.
21. Respondent did not preserve the \$500 or any fees paid her by Wife in trust.
22. Respondent asserts, "[f]ees billed after work was completed because of 10+ year relationship of representing [Wife] and was a part of same church family. Money withdrawn as earned fees. Did not place [sic] a trust account."

#### **CONCURRENT REPRESENTATION OF HUSBAND AND WIFE**

23. Respondent admits that she then agreed to and did represent Husband, concurrently with Respondent's representation of Wife in Wife's divorce against Husband.
24. Respondent already knew about Husband's immigration status as he had "shared information about his immigration status and case" with Respondent earlier in 2021.
25. Respondent represented Husband on a traffic misdemeanor and failures to appear in Winchester:

During the pendency of the [divorce] case, [Husband] asked me to help him on his traffic matter in Winchester and I agreed to do so. I checked the court information system that showed [Husband] still had a traffic matter and multiple FTAs. [Husband] agreed to continue payments beyond our consultations to be placed towards the matter in Winchester. [Husband] wanted to wait until he had his driver's license, so he wanted me to assist him in turning himself in with bail bonds person and motions for bail ready to be filed.

... Husband and his girlfriend texted and called regularly to ask general questions. They would pay for every consultation fee. On many occasions, I would talk to them without payment, with the understanding that they would pay at a later time...

26. Respondent never obtained the informed consent of Husband or Wife to Respondent's representation of each, while representing the other.

**RESPONDENT'S REPRESENTATION OF HUSBAND**  
**MARCH 3, 2021**

27. On March 3, 2021, within a week of agreeing to represent Wife, Respondent invoiced Husband's girlfriend to represent Husband in ongoing matter(s) in Winchester and to represent Husband's girlfriend in her divorce:

Hi [Husband]! Sent retainer and one invoice to [Girlfriend] for divorce and prep work for Winchester [traffic matter]. Let me know if you have any questions.

28. On that same day, March 3, 2021, Husband texted Respondent about representing Husband in the divorce against Wife.
29. Respondent did not disclose to Husband that she could not represent him in the divorce.

**RESPONDENT'S REPRESENTATION OF WIFE**  
**MARCH 3, 2021**

30. Respondent did not tell Wife that Husband texted her about representation in the divorce.
31. Instead, on March 3, 2021, that same day that Respondent agreed to represent Wife in the divorce and the same day Respondent sent Husband a retainer for representation in Husband's pending matters in Winchester, Respondent disclosed information gained from Husband in the attorney/client relationship, which could be detrimental or embarrassing to Husband, to Wife:



[Husband] texted me today about his immigration matter. Let me know if you want me to facilitate. Until then I will not say anything to him.

32. Wife responded, "I just don't want him to switch up and not sign because of immigration."
33. Respondent disclosed to Wife more detrimental or embarrassing information gained in the attorney/client relationship with Husband:  
Husband "has traffic issues that impact his immigration."
34. Respondent asked Wife whether Husband filed for immigration under the married status.
35. Respondent thus knew or should have known before or at the outset of her representation of Wife and Husband that their interests conflicted and that Wife sought a divorce, as fast as possible, while Husband's immigration status could be negatively impacted by a divorce. Instead of declining the representation, Respondent shared confidential information detrimental to Husband, and Respondent undertook to obtain a divorce by publication against Husband, essentially by default, including filing fraudulent affidavits to obtain the divorce by publication, as is further set forth. During Respondent's concurrent representation of Husband and Wife, Respondent billed both Husband and Wife for her legal services. Respondent did not preserve any of Husband's or Wife's fees in trust as Respondent had no trust account.

**SHAM DIVORCE BY PUBLICATION AND MULTIPLE  
ERRORS IN DIVORCE FILINGS;  
FAILURE TO PRESERVE ADDITIONAL FEES FROM WIFE IN TRUST  
MARCH TO NOVEMBER 2021**

36. That same day, March 3, 2021, by text message, Wife asked Respondent how long it would take to obtain service by publication because Wife wanted the divorce within the month, and Wife did not think that Husband would sign the divorce papers or give Wife his address.
37. Respondent answered that publication would take four weeks, longer than if Husband signed, and that publication would cost an additional \$800.
38. Respondent's file notes for March 3 state in part:
- [Wife] now wants to do publication. I told her that he messaged me about his immigration traffic matter and I could help facilitate having him sign the paperwork but only if she asked me to. She wants to know if his immigration status would affect her and getting the divorce no told her signature would be faster than publication. She's going to go ahead and try contact him with the papers. I asked her did he file for immigration status under the married status and no answer from her.
39. Per Respondent, "[t]he system of notice by publication is supposed to provide all parties notice of divorce actions against them and a painless opportunity to divorce when they stop contact with one another."
40. Pursuant to Va. Code § 8.01-316, publication is only available if "diligence has been used without effect to ascertain the location of the party to be served." In *Dennis v. Jones*, 240 Va. 12, 393, 393 S.E.2d 390, -- (1990), the Supreme Court of Virginia rejected "informal contacts" with unnamed friends at two governmental agencies prior to a sheriff's effort to serve process as constituting due diligence particularly where routine methods were readily available to the party seeking service by publication.

The Court explained:

The purpose of an order of publication, which is in lieu of process, is to bring the defendant into court, to apprise the defendant of the nature of the proceedings, and to

notify the party that his or her rights will be affected by the litigation. “Because the notice is constructive only, the order of publication and the statute authorizing it both must be strictly construed.” *Forrer v. Brown*, 221 Va. 1098, 1105, 277 S.E.2d 483, 486 (1981).

The Court further emphasized:

“even though § 8.01-316 provides that the party seeking service shall file an affidavit “stating” one or more of the required grounds, the grounds so stated must, in fact, be true and not merely idle declarations having no factual basis.” *Id.* at 393.

\*\*\*\*

The noun “diligence” means “devoted and painstaking application to accomplish an undertaking.” Webster’s Third New International Dictionary 633 (1981). Cf. *STB Marketing Corp. v. Zolfaghari*, 240 Va. 140, -- 393 S.E.2d. 394, 397 (1990), decided today (defining due diligence to reasonably discover in context of statute of limitations in action for fraud). ....

*Id.* at 393.

*See also Evans v. Evans*, 300 Va. 134. --. 860 S.E.2d 381, 385 (2021), “service of process by order of publication – traditionally called constructive service – is the “lowest quality of notice[.]”

41. By email dated March 3, 2021, Respondent emailed 16 attachments of “divorce documents” to Wife and asked her to sign and return to Respondent.
42. Respondent did not disclose Husband’s address, which she had as a result of the October 25, 2020 consultation, to Wife.
  - a. In her response to the bar complaint, Respondent told the bar that she did not know where Husband lived in February 2021.

I did not know where [Husband] lived, did not feel that it was a conflict that I had contact with him, and did not ask him for his address for [Wife]. ... I felt it inappropriate to ask [Husband] for his address to give to [Wife] as he was in the process of retaining me for a separate matter. [Wife] did her due diligence as he left [Wife] for another woman, and she had exhausted best efforts to locate his address.
  - b. Respondent later told the bar investigator that she did not disclose the information to Wife due to duty under the attorney-client privilege she owed Husband.

43. A March 23, 2021 text message from Respondent indicates that Wife knew Husband's address, and Respondent knew that Wife knew his address such that the entire publication process was either a sham, or Respondent made herself willfully and incredibly (not credibly) blind to the fact that both Respondent and Wife knew Husband's address. On March 23, 2021, Respondent texted Wife:  
  
By going publication, you are declaring you don't know where he is. Uncle [Husband's relative who contacted Wife] knows you know where he is.
44. On March 4, 2021, Respondent called Wife to see whether Wife wanted Respondent "to do publication paperwork as well so she could have a choice." Wife agreed to seek divorce by publication because Husband was "avoiding her. Prepare paperwork she's good."
45. On March 10, 2021, Respondent emailed affidavits for publication to Wife.
46. On March 25, 2021, Respondent quoted Wife a fee of \$800 for the publication cost and \$150 for a name change. Wife paid Respondent by Zelle that day.
47. Respondent did not preserve any fees paid her by Wife in trust.
48. By emails dated April 2 and 10, 2021, Respondent asked Wife for the names of two witnesses as part of the publication process. Respondent also instructed Wife to inform the friend with whom Husband and Wife had resided during their marriage that the friend would receive and should decline a certified letter being sent to Husband as part of the publication process.
49. On May 5, 2021, Respondent, on Wife's behalf, filed a divorce complaint in the Circuit Court of Loudoun County.
50. Respondent requested a no-fault divorce based on the parties being separated for six months instead of one year. Pursuant to Va. Code § 20-91(A)(9)(a), a one-year separation was required because there was no separation agreement.

51. The Clerk's Office rejected Respondent's May 5, 2021 filing because Respondent used a starter check to pay the fee.
52. On May 14, 2021, Respondent refiled the divorce complaint again based on the parties having been separated for six months, not 12.
53. The complaint, prepared and filed by Respondent, alleged that Husband's current address was unknown, and listed as his last address an address that Respondent knew was not Husband's last address.
54. On May 14, 2021, Respondent filed a Request of Waiver of Service and Draft Order of Publication pursuant to Va. Code Sections 8.01-316 and 20-104. As part of the publication process, Wife signed an affidavit stating that Husband could not be located. Respondent filed the affidavit along with the divorce complaint.
55. From May to November 2021, Respondent's drafts of the pleadings and orders for publication contained multiple errors resulting in repeated rejections by the clerk's office.

**RESPONDENT'S CONCURRENT REPRESENTATION OF HUSBAND IN  
TRAFFIC MISDEMEANOR AND FAILURES TO APPEAR WHILE SEEKING  
DIVORCE BY PUBLICATION AGAINST HUSBAND**

**RESPONDENT'S WORK AND BILLING TO HUSBAND OF LEGAL FEES ON  
CASES AFTER HUSBAND'S CASES WERE DISMISSED/NOLLE PROSSED**

**FAILURE TO PRESERVE ANY FEES FROM HUSBAND IN TRUST  
MARCH TO JULY 19, 2021**

56. By text dated March 15, 2021 to Husband, Respondent advised Husband that Respondent sent Husband an invoice for the Winchester matter.
57. In a subsequent text dated March 15, 2021, Respondent instructed Husband to pay Respondent half of her legal fee that day so Respondent could commence work on Husband's traffic matters.

58. In the summer of 2021, Husband contacted Respondent for representation on what he thought were outstanding matters including driving on a suspended license and a failure or failures to appear on those charges (the “Charges Against Husband”).
59. As of June 8, 2021, the Charges Against Husband had actually been nolle prossed or dismissed by the Commonwealth’s Attorney. This information was on the court’s online case information system.
60. Husband was unaware of the dismissal of the charges against him.
61. Respondent did not review the case information system and was not aware of the dismissal of the Charges Against Husband.
62. In July 2021, Respondent sent Husband an invoice for \$2,500 for representation on the Charges Against Husband.
63. On July 19, 2021, Husband paid Respondent \$1,000 to represent him on the already dismissed Charges against Husband.
64. Respondent did not deposit the legal fees received from Husband into trust.
65. In August and September, Respondent continued to reference or issue invoices that related to legal advice for the dismissed Charges against Husband.
66. By texts September 10, 2021, Respondent gave Husband legal advice regarding the Charges Against Husband that had previously been dismissed.

**FALSE AFFIDAVITS FOR ORDER OF PUBLICATION**

67. On July 6, 2021 and again on September 24, 2021, on behalf of Wife, Respondent filed Affidavits for Order of Publication in which Respondent stated under oath that Husband “cannot be found, and that diligence has been used without effect to ascertain the location of the party to be served.”
68. Husband was in contact with Respondent both before and after Respondent filed both affidavits.
69. During the time that Respondent filed the affidavits, Respondent provided Husband legal advice and charged Husband legal fees for the Charges against Husband.
70. In October 2021, Respondent finally obtained publication of the divorce proceedings against Husband. A hearing was set before the court for November 19, 2021.

**HUSBAND’S EMPLOYER NOTIFIES HUSBAND OF PUBLICATION OF  
DIVORCE HEARING/EMERGENCY MEETING  
OCTOBER 13, 2021**

71. In October 2021, Husband’s employer saw the publication order in the local newspaper and told Husband.
72. Husband called Respondent at 3 a.m. and requested an emergency consultation with Respondent. As Respondent knew or should have known based on representation of Husband throughout, Husband was very concerned about his immigration status.
73. Husband, Girlfriend, and Respondent met on October 13, 2021.
74. Respondent described the meeting as follows:

When I spoke with [Husband] for approximately 3 hours about the publication the Following day, I told him that [Wife] did not know where he lived and neither did I because I had no need to ask him, and I never did. Furthermore, I told [Husband] to appear in court on that day, get an attorney, and even call [Wife]. [Husband] was concerned that his immigration status would be impacted if he appeared because he did not want the divorce to be finalized. He was also concerned that if the divorce would be granted, his immigration application would be dismissed because his marriage to [Wife] was the basis of the application. He was also hoping that the paperwork would not reach

immigration, but I told him that it would because of the VS-4 form that is filed. I told him that he would have to speak with his immigration attorney about the ramifications of the filing. [Husband] was also contemplating allowing the divorce to proceed and then immediately remarrying his girlfriend and amending his immigration petition.

75. Respondent told the bar's investigator that in her October 13, 2021, meeting with Husband and Girlfriend, Husband told Respondent that he was trying to buy time before divorcing because of his immigration status. Respondent told the bar's investigator that she then decided she needed to get out of the case, and she told Husband "he needed to get an attorney and to come to court, and that she was going to let the court know."
76. Husband and Girlfriend state that in the October 13 meeting Respondent finally admitted that Wife had contacted Respondent about handling the divorce on Wife's behalf.
77. Husband and Girlfriend state that Respondent told Husband that Husband should just show up at court on November 19. Husband states he told Respondent that he would not just show up.
78. Respondent did not nonsuit the divorce for another two months. Instead, she only nonsuited the matter after Husband's new counsel raised Respondent's conflict to Respondent, as set forth below.
79. Respondent billed Husband \$180 for the October 13 consultation which was caused because of Respondent's actions on behalf of Wife.

**RESPONDENT ONLY ISSUES PARTIAL REFUND AFTER HUSBAND LEARNS THAT ALL CHARGES AGAINST HIM WERE ACTUALLY NOLLE PROSSED OR DISMISSED AS OF JUNE 1, 2021**

80. After the October 13 meeting, Girlfriend went online to the Case Information System to review the status of the Charges Against Husband and learned that all charges against Husband had already been dismissed or nolle prossed as of June 8, 2021.
81. On October 28, 2021, Husband sent Respondent screenshots regarding the dismissed charges against him. Respondent agreed that Husband was due a refund.



82. By text dated November 5, 2021 to Respondent, Husband requested whether Respondent was sending him a refund for the representation on the already dismissed criminal charges.
83. On November 6, 2021, Respondent sent Husband a partial refund of \$320 against the \$1,000.00 payment he made to Respondent on July 19, 2021.
84. Respondent did not provide Husband with any accountings regarding the fees he paid and services she rendered.

**RESPONDENT STILL DOES NOT WITHDRAW AS COUNSEL OR TELL  
WIFE;  
OCTOBER AND NOVEMBER 2021/NONSUIT OF DIVORCE ONLY AFTER  
COMPLAINANT, COUNSEL FOR HUSBAND, CONTACTS RESPONDENT  
NOVEMBER AND DECEMBER 2021**

85. Over one month after the October 13 meeting, with the November 19 hearing pending, Respondent had not “let the Court know” as Respondent had assured Husband she would do, nor had Respondent taken any steps to withdraw as Wife’s counsel.
86. In November 2021, Husband retained Sarah Bruns, Esq., to represent Husband in his divorce.
87. Prior to the November 19, 2021 hearing, by email to Respondent, Ms. Bruns recounted the facts as she understood them and stated:

This doesn’t seem compatible with (1) representing his wife in a divorce, and (2) seeking a divorce based on an order of publication with a due diligence affidavit filed with [Wife] stating she cannot find him. He has been living at the same address for some time now, and in Loudoun County for years. Please confirm you will be removing Friday’s hearing and seeking to withdraw from representation of [Wife] in the divorce matter. Please respond by COB today, as I will be filing an objection to the matter being heard on November 19, 2021 before noon tomorrow.

88. Respondent responded:

[Wife] has represented that she does not have any knowledge of his whereabouts. Per client confidentiality. The clerk did not approve the proof and it was accidentally published as six months again instead of one year. I will be moving to dismiss the

matter. Please let me know if you have any questions and feel free to contact me. Justice and successful outcomes for all.

89. After Ms. Bruns stated she would file an objection if Respondent did not remove the November 19 hearing, Respondent finally told Wife about Respondent's representation of Husband and conflict of interest. Respondent told Wife that she would nonsuit Wife's divorce.
90. Respondent nonsuited Wife's divorce.
91. Respondent did not refund any fees to Wife.
92. On December 17, 2021, the Loudoun County Circuit Court entered an Order of Voluntary Nonsuit, terminating Respondent's representation of Wife.

#### **BAR COMPLAINT/MISREPRESENTATIONS IN RESPONSE TO BAR**

93. On December 29, 2021, Ms. Bruns reported the matter to the VSB noting, "If [Respondent] hadn't kept making errors that caused the Loudoun Circuit Court to reject the entry of the Order of Publication, the divorce may well have been entered by now without [Husband] ever having found out."
94. In her response dated January 18, 2022, to the bar complaint, Respondent misstated or misrepresented two significant facts to the bar:
  - "I did not have knowledge of where [Husband] was living because I had not spoken with him in over 10 years of having represented him in traffic matters."
  - "[Wife] contacted me in July and asked me to represent her in non-contested divorce."
95. Respondent knew Husband's address as of October 24, 2020. On October 24, 2020, Husband submitted to Respondent a consultation form with his address, and Respondent spoke to Respondent in October 2020 and then communicated with him in 2021 prior to representing Wife, as discussed above.

96. Notwithstanding Respondent's misstatement that she did not know Husband's address, the bar referred the matter for investigation.
97. In her interview with the bar's investigator, Respondent finally admitted that she had Husband's address as of the October 2020 consultation.
98. Also, in her response to the bar complaint, Respondent stated that Wife contacted her for representation in the divorce in July 2021.
99. As set forth above, Respondent represented Wife as of late February 2021.
100. Respondent filed a supplemental response to the bar complaint. She did not correct either misstatement.
101. In her March 21, 2022 file index to the bar, Respondent parenthetically explains the fact Respondent did not deposit fees received from either Husband or Wife in trust as "billed after work was completed because of 10+ years of representing [Husband and Wife respectively] and was part of same church family." Respondent knew when she made this statement that it is inaccurate.
102. Immediately upon receipt of the Certification, Respondent contacted the bar to express remorse about her handling of this matter and the misconduct.
103. Respondent acknowledges all misconduct and has expressed a sincere desire to take steps to address the harm to her clients and to avoid violating the Virginia Rules of Professional Conduct in the future.
104. Respondent has fully refunded the fees paid by both Husband and Wife, and Respondent has opened a trust account. Respondent has also registered for eight (8) hours of CLE in ethics.

## II. NATURE OF MISCONDUCT

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

*By her numerous errors and omissions in Respondent's filings which required multiple re-filings, Respondent violated Rules 1.1 and 1.3(a).*

*By not advising Wife that publication required diligent efforts to locate Husband when advising Wife to elect divorce by publication, Respondent violated Rule 1.1.*

*By failing to recognize that the criminal matters for which she had been retained to represent Husband had already been nolle prossed or dismissed at the time she was hired, and which was easily determined from a review of the public case information, and by failing to discover this information until she was advised of it over two months after she accepted the fee, Respondent violated Rules 1.1 and 1.3(a).*

*By not recognizing the obvious conflicts of interest, Respondent violated Rule 1.1.*

### 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.

\* \* \* \*

### RULE 1.3 Diligence

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

\* \* \* \*

*By charging Husband \$1000 for representation on criminal charges which were either dismissed or nolle prossed at the time Respondent accepted the retention and by only returning*

*\$320 of the fee to Husband upon termination of representation, Respondent violated Rule 1.5(a), 1.15(b)(4), 1.16(d), and 8.4(b).*

*By charging Husband legal fees for consulting with Respondent regarding Wife's divorce from him on which Respondent represented Wife, Respondent violated Rule 1.5(a).*

*By not refunding Wife's fee to Wife after Respondent nonsuited the divorce case against Wife, Respondent violated Rule 1.5(a) 1.16(d), and 8.4(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

\* \* \* \*

**RULE 1.15 Safekeeping Property**

(b) Specific Duties. A lawyer shall:

(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; and

\* \* \* \*

RULE 1.16 Declining Or Terminating Representation

(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).

\* \* \* \*

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

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

\* \* \* \*

*By disclosing to Wife in March 2021 that Husband had pending matters about which Husband had communicated with Respondent as his counsel, and by advising Wife that she could facilitate execution of the divorce having Husband sign the paperwork and by discussing Husband's immigration status with Wife, Respondent violated Rule 1.6.*

*By telling Husband on October 13, 2021, and while the divorce was pending, that Wife had contacted Respondent regarding the divorce, Respondent violated Rule 1.7.*

RULE 1.6 Confidentiality of Information

(a) A lawyer shall not reveal information protected by the attorney-client privilege under applicable law or other information gained in the professional relationship that the client has

requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b) and (c).

\* \* \* \*

*By simultaneously representing Husband and Wife in matters adverse to one another where there was a significant risk that Respondent's representation of each was materially limited by Respondent's responsibilities to the other, Respondent violated Rule 1.7.*

*By proceeding with obtaining divorce by publication for Wife against Husband – of all methods of service – and seeking divorce by default when Respondent knew Husband would be adversely affected, while simultaneously representing Husband, Respondent violated Rule 1.7.*

*By taking actions adverse to Wife while representing Husband, Respondent violated Rule 1.7.*

*By taking actions adverse to Husband while representing Wife, Respondent violated Rule 1.7.*

*By having Wife nonsuit the divorce Wife sought at least partially in order to protect Respondent herself from adverse consequences, Respondent violated Rule 1.7.*

RULE 1.7 Conflict of Interest: General Rule.

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph(a), a lawyer may represent a client if each affected client consents after consultation, and:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) the consent from the client is memorialized in writing.

\* \* \* \*

*By submitting false evidence in doing so, including Respondent's own affidavit that Respondent had used diligence to effect service on Husband, Respondent violated Rules 1.7, 1.3(c), 3.1, 3.3(a)(1) and (a)(4), 3.4(b), and 8.4(a-c).*

**RULE 1.3 Diligence**

(c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

\* \* \* \*

**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.

\* \* \* \*

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;

\*\*\*

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

\* \* \* \*

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

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

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

\* \* \* \*

*By not preserving in trust any advance legal fees, or filing fees, of Wife and Husband, Respondent violated Rule 1.15(a)(1).*

RULE 1.15 Safekeeping Property

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for

costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

*By failing to maintain any records of any funds paid by Husband and Wife, and by failing to provide any accountings of the fees paid to Husband or Wife, Respondent violated Rule 1.15(b)(3) and (c)(2).*

**RULE 1.15 Safekeeping Property**

(b) Specific Duties. A lawyer shall:

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

\* \* \* \*

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(2) A client ledger with a separate record for each client, other person, or entity from whom money has been received in trust. Each entry shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; source of funds received or purpose of the disbursement; and current balance.

\* \* \* \*

*By continuing to represent both Husband and Wife in their respective cases and not withdrawing from the cases, Respondent violated Rule 1.16(a)(1).*

RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law;

\* \* \* \*

*By representing to the VSB in her response to the bar complaint that Respondent “did not have knowledge of where [Husband] was living because I had not spoken with him in over 10 years of having represented him in traffic matters” when in fact Respondent had spoken with Husband on October 25, 2020; had his address on the consultation form from October 2020; and represented Husband during 2021 while Respondent represented Wife, Respondent violated Rule 8.1(a).*

*By representing had only represented Wife since July 2021 when in fact Respondent had represented Wife since February 2021, and Respondent knew or should have known this fact from a review of her engagement agreement which she should have reviewed in answering the bar complaint, Respondent violated Rule 8.1(a).*

*By representing to the bar that Respondent only received fees from Husband and Wife after Respondent had completed her legal services for each, and thus was not required to preserve such fees in trust, Respondent violated Rule 8.1(a).*

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:

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

\* \* \* \*

*By failing to tell Husband and Wife of her conflicts of interest, Respondent violated Rule 8.4(a).*

*By filing all pleadings and by all actions took to publish the divorce proceedings, Respondent violated Rule 8.4(a).*

**RULE 8.4 Misconduct**

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

**III. PROPOSED DISPOSITION**

Accordingly, bar counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of a six-month suspension as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. Bar Counsel and Respondent agree that the effective date for the sanction shall be the date of entry of the Disciplinary Board Order approving this Agreed Disposition.

The terms with which Respondent must comply are as follows:

**1. MCLE**

On or before June 1, 2023, Respondent will complete twelve (12) hours of continuing legal education credits by attending courses approved by the Virginia State Bar in the subject matter of legal ethics and trust accounting. Respondent's Continuing Legal Education attendance obligation set forth in this paragraph will not be applied toward her Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which Respondent may be licensed to practice law. Respondent will certify her 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 her attendance of each such CLE program(s).

**2. TRUST INSPECTION**

For a period of two (2) years following the termination of Respondent’s suspension, Respondent hereby agrees to and will submit to unannounced reviews by a Virginia State Bar Investigator of her trust account books, records, and bank records to ensure her compliance with all of the provisions of Rule 1.15 of the Rules of Professional Conduct. Respondent agrees to and will fully cooperate with the Virginia State Bar investigator in submitting to such reviews and making available bank records, cancelled checks, checkbooks, subsidiary ledgers, receipts journals, disbursements journals, evidence of reconciliations, and any and all other documents necessary for the completion of the reviews.


Upon satisfactory proof that all terms and conditions have been met, this matter shall be closed.

If, however, any of the terms and conditions is not met by the deadlines imposed above, Respondent agrees that the Disciplinary Board shall impose a two-year suspension pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9.E of the Rules.

THE VIRGINIA STATE BAR

By: *Renu M. Brennan*  
Renu M. Brennan  
Bar Counsel

  
Shena Dixon Mason  
Respondent