



VIRGINIA:

BEFORE THE THIRD DISTRICT, SECTION II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
Kevette Beard Elliott

VSb Docket No. 21-032-121578

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

Meetings were held in this matter on February 10, 2022 and March 16, 2022 before a duly convened Third District, Section II Subcommittee consisting of Brielle Marie Hunt, Chair, Annemarie DiNardo Cleary, Member, and John Nicoll, Lay Member. During the March 16, 2021 meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4 of the Rules of the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Laura Ann Booberg, Assistant Bar Counsel, and Kevette Beard Elliott, Respondent, pro se.

WHEREFORE, the Third District, Section II Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. For all times relevant hereto, Respondent, Kevette Beard Elliott, has been an attorney licensed to practice law in the Commonwealth of Virginia. She was licensed to practice law in the Commonwealth of Virginia on October 12, 1989.
2. On September 3, 2019, Respondent agreed to represent Complainant, Gabriel Brooks ("Brooks"), and his wife in a dispute with a contractor who was supposed to repair Brooks' house after a fire. Respondent charged Brooks an advanced fee of \$4,000, which she collected via a credit card transaction deposited directly into her operating account. At no time did Respondent transfer the funds into her trust account.
3. As part of the representation, Respondent agreed to contact the contractor, the bank and the insurance company in an effort to sort out the insurance proceeds and hire a new contractor to finish repairing damage to Brooks' home. Respondent also agreed to file a complaint against the contractor with the Virginia Department of Professional and Occupational Regulation ("DPOR").

4. On November 8, 2019, Respondent sent letters of representation to the contractor and the bank holding the insurance funds needed to repair Brooks' home. When the contractor refused to accept the letter from the courier, Respondent called Brooks and notified him.
5. On November 11, 2019, Respondent met with Brooks and his wife to discuss the case and the documents Respondent would need to proceed.
6. Brooks did not hear from Respondent until December 2019, when Respondent met with him and a potential new contractor, but Brooks did not have the funds to pay the new contractor because the bank had not yet released them.
7. On January 13, 2020, Respondent conferred with Brooks and the mortgage loan department servicing Brooks' mortgage.
8. In February and March 2020, Respondent corresponded with Brooks' insurance company regarding the requirements necessary to remove and replace the contractor.
9. In March and April 2020, Respondent continued to attempt to negotiate with and replace the contractor.
10. On May 20, 2020, in a phone call with Brooks and his wife, Respondent stated that she would have all the documents ready within the week and no later than the second week of June 2020 for he and his wife to approve for submission of a DPOR complaint.
11. On June 22, 2020, Brooks emailed Respondent, stating, "We haven't heard from you last week when reaching out and just wanted to touch base with you as last we spoke you informed us that you would be filing complaints with DPOR for hearings against Massenburg and the Engineer in mid-June, Please give us a call ASAP."
12. On June 25, 2020, Respondent emailed Brooks and stated, "I received your email and text. I will be in touch with you. Thank you."
13. On July 3, 2020, Brooks emailed Respondent and stated:

We haven't heard anything from you as pertaining to our case in over a month. It is July 3rd, three days from the 2 year anniversary of our house fire and 10 months since signing a retainer for your services. In our first meeting, you assured us that we would have nothing to worry for in handling of our case. You assured us that the situations were pretty cut and dry. We were not expecting this process to go over night, but we feel as we have been very understanding but are feeling hopeless...We are very concerned about not having updates regularly, in regards, to our case. Please contact us ASAP in concerns to where you are in our case.

14. On July 6, 2020, Respondent emailed Brooks and stated, "I have received your texts and email. We are not sitting idle on your case even though we are not communicating with you often. We will be communicating with you next week to bring you current."

15. On August 3, 2020, Brooks emailed Respondent, and stated:

After contact with you last Friday, July 24th you assured us for a second time that you would have the appropriate action taken on our behave(sic) as our attorney. You stated that again you would have the appropriate documents for our approval no later than Wednesday submitted to us for our viewing, in the complaint against Mr. Massenburg and Advanced engineering; to be submit to DPOR, as you promised and reassured us that it would have been done, in the second week in June. You also said you would call us on Friday, to discuss any corrections which did not happen. **RESPOND PLEASE** At this point we are not understanding the delay in filing as you have had all the paperwork and estimates concerning this since December of 2019. As you have been aware that this situation inflicted upon us has brought us to financial ruin and delay worsens us. The DPOR complaint form if not completed by Wednesday, will have to be filed by us, as we cannot continue to have this delayed any more. We think we have been very patient as to the slow progress of our case as you have had many complications with family sicknesses and we were understanding of it, as it was you reason for not communicating with us in 2019...we are not saying you aren't doing anything, but we are oblivious to what you are doing as there is no communication of what is being done...Please contact us to let us know about our concerns as we cannot continue to be in the dark as we will have to take appropriate action on our own with or without you.

16. The same day, Respondent emailed Brooks and stated, "As I shared with you I would be out of town and would be working on your file. My return schedule changed. I am back. You will receive the information. Thank you."

17. On August 8, 2020, Respondent sent Brooks and his wife a detailed email outlining three possible options for their consideration given that the house was an asset in a Chapter 13 bankruptcy. Respondent did not mention her failure to file the DPOR complaint or any reluctance to file it.

18. On November 5, 2020, Brooks wrote to Respondent and requested a refund of attorney's fees. He stated:

Attorney Kevette Elliott, we are writing to you in concern of your representation in the matters of DPOR filing against A. Massenburg Inc. and Advanced Engineering You were paid in total \$4200.00 to represent us in matters dealing with the misappropriation of funds to A. Massenburg Inc. by BB&T, our being underinsured by BB&T and Liberty Mutual along with filing suit against A. Massenburg and Advanced Engineering. We have had no contact with you since August as we have been waiting for you the DPOR filing since May. At this time we no longer wish to proceed with your services and ask that you give us an audit of what you have done on our behalf and provide us with our file and any and all communications of your representation of us by you and your firm, any and all paperwork concerning this matter. We are asking that you refund the sum paid to you by us in the amount of \$4000.00 paid to your firm for our representation in these matters or show adequate reasoning for any deductions of these funds. Please contact us ASAP as to when we can conclude this matter.

19. On November 12, 2020, Respondent replied and stated:

We are in receipt of your email. We will send a full response by Monday. We do realize that you and your family are going through hell and we sincerely want to be of assistance to you in resolving this matter. Our communications have been very scarce since August and we apologize for the position this has put you in. We now have additional full time help and we are moving on cases that experienced a slow down. We will give you an accounting on Monday. We understand that you do not wish to continue with our office and we respect that. We would truly, however, like to continue to work with you.

20. Respondent did not provide Brooks with an accounting on Monday. Respondent told VSB Investigator Lisa Marshall that she expected to receive a response from Brooks. Since she didn't receive one, she did nothing.
21. According to Respondent, after learning that Brooks' home was an asset in a bankruptcy, she became reluctant to continue with the case. She also felt that filing the DPOR complaint would not help the clients' cause, but merely punish the contractor. Respondent did not communicate this to the clients, and never filed the DPOR complaint.
22. On January 8, 2021, after not hearing from Respondent, Brooks filed the instant complaint.
23. Respondent told Investigator Marshall that she probably should have filed the DPOR complaint but she "got behind" due to COVID. However, on March 18, 2021,

Elliott wrote to Brooks in response to his rebuttal to the VSB and criticized Brooks for stating that he was disappointed that Respondent did not file the DPOR complaint, which was the very thing that she was hired to do. She stated:

Your response dated February 4, 2021 seems almost contradictory to your complaint. In your complaint, you stressed that we were keeping your money from you and how that was hurting your family and that we knew how badly you needed your money. In your response to our initial response, your focus seems to have shifted. Now you are saying that it is not really the money, it is the disappointment that we did not file the DPOR complaints. Since the beginning of the case, the financial component has been your prime concern. It appears that either your concerns have shifted or you are being guided and directed by someone in the pursuit of your complaint.

24. At no point did Respondent tell Brooks that she did not feel comfortable filing the DPOR complaint due to the bankruptcy. In fact, she twice told Brooks that the DPOR complaint would be prepared shortly and then never followed through.
25. Respondent also told Investigator Marshall that, rather than filing the DPOR complaint as promised, she focused on “more important things.” She stated that the DPOR complaint was not going to resolve the issues Brooks and his family were facing, rather there were more important issues she was trying to work on with BB&T Bank and with trying to get the contractor to sign the Termination of Contract and Release of Liens she repeatedly sent. Respondent said these were more important issues than getting DPOR to “smack the contractor’s hand” which while being what Brooks wanted, was not going to provide any financial or other relief but would take time better spent pursuing the other issues with his case.
26. On March 23, 2021, Brooks’ wife visited Respondent’s office and picked up the client file and a refund check for \$4,200 drawn from Respondent’s operating account.¹
27. On December 15, 2021, Brooks informed Investigator Marshall that he had filed DPOR complaints himself against the contractor and the engineer.
28. As part of her investigation, Investigator Marshall also performed an audit of Respondent’s trust accounts. The audit revealed that Respondent was accepting advanced payments by credit card directly into her operating account. Since depositing Brooks’ \$4,000 payment directly into her operating account, Respondent has purchased an automated accounting system and has established a system of depositing only earned fees into her operating account.

¹ The additional \$200 was for a consultation fee presumably earned upon receipt.

II. NATURE OF MISCONDUCT

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

For failing to file a DPOR complaint after promising to do so on two occasions:

RULE 1.3 Diligence

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

For failing to inform Brooks that Respondent was reluctant to file a DPOR complaint so that Brooks could make informed decisions about the continued representation:

RULE 1.4 Communication

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

For failing to deposit Brooks' \$4,000 attorney's fee into Respondent's trust account:

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.

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The term shall be met by one year from the date that the subcommittee approves this disposition and is as follows:

1. For a period of one (1) year following entry of this Order, Respondent hereby authorizes a Virginia State Bar Investigator to conduct unannounced personal inspections 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, and shall fully cooperate with the Virginia State Bar investigator.

If the term is not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause the matter should not be certified to the Virginia State Bar Disciplinary Board for Sanction Determination pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed.

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

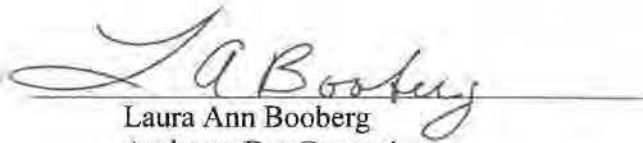
THIRD DISTRICT, SECTION II
SUBCOMMITTEE OF THE
VIRGINIA STATE BAR



Brielle Marie Hunt
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on March 24, 2022, a true and complete copy of the Subcommittee Determination (PUBLIC Reprimand With Terms) was sent by certified mail to Kevette Beard Elliott, Respondent, at Elliott Law Office, 8501 Mayland Dr Ste 104, Richmond, VA 23294, Respondent's last address of record with the Virginia State Bar.


Laura Ann Booberg
Assistant Bar Counsel

VIRGINIA:

BEFORE THE THIRD DISTRICT SUBCOMMITTEE, SECTION II
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
KEVETTE BEARD ELLIOTT

VS. Docket No. 21-032-121578

AGREED DISPOSITION
PUBLIC REPRIMAND WITH TERMS

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the Virginia State Bar, by Laura Ann Booberg, Assistant Bar Counsel, and Kevette Beard Elliott, Respondent, pro se, hereby enter into the following agreed disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. For all times relevant hereto, Respondent, Kevette Beard Elliott, has been an attorney licensed to practice law in the Commonwealth of Virginia. She was licensed to practice law in the Commonwealth of Virginia on October 12, 1989.
2. On September 3, 2019, Respondent agreed to represent Complainant, Gabriel Brooks ("Brooks"), and his wife in a dispute with a contractor who was supposed to repair Brooks' house after a fire. Respondent charged Brooks an advanced fee of \$4,000, which she collected via a credit card transaction deposited directly into her operating account. At no time did Respondent transfer the funds into her trust account.
3. As part of the representation, Respondent agreed to contact the contractor, the bank and the insurance company in an effort to sort out the insurance proceeds and hire a new contractor to finish repairing damage to Brooks' home. Respondent also agreed to file a complaint against the contractor with the Virginia Department of Professional and Occupational Regulation ("DPOR").
4. On November 8, 2019, Respondent sent letters of representation to the contractor and the bank holding the insurance funds needed to repair Brooks' home. When the contractor refused to accept the letter from the courier,

Respondent called Brooks and notified him.

5. On November 11, 2019, Respondent met with Brooks and his wife to discuss the case and the documents Respondent would need to proceed.
6. Brooks did not hear from Respondent until December 2019, when Respondent met with him and a potential new contractor, but Brooks did not have the funds to pay the new contractor because the bank had not yet released them.
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- Attorney Kevette Elliott, we are writing to you in concern of your representation in the matters of DPOR filing against A. Massenburg Inc. and Advanced Engineering. You were paid in total \$4200.00 to represent us in matters dealing with the misappropriation of funds to A. Massenburg Inc. by BB&T, our being underinsured by BB&T and Liberty Mutual along with filing suit against A. Massenburg and Advanced Engineering. We have had no contact with you since August as we have been waiting for you the DPOR filing since May. At this time we no longer wish to proceed with your services and ask that you give us an audit of what you have done on our behalf and provide us with our file and any and all communications of your representation of us by you and your firm, any and all paperwork concerning this matter. We are asking that you refund the sum paid to you by us in the amount of \$4000.00 paid to your firm for our representation in these matters or show adequate reasoning for any deductions of these funds. Please contact us ASAP as to when we can conclude this matter.
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- Your response dated February 4, 2021 seems almost contradictory to your complaint. In your complaint, you stressed that we were keeping your money from you and how that was hurting your family and that we knew how badly you needed your money. In your response to our initial response, your focus seems to have shifted. Now you are saying that it is not really the money, it is the disappointment that we did not file the DPOR complaints. Since the beginning of the case, the financial component has been your prime concern. It appears that either your concerns have shifted or you are being guided and directed by someone in the pursuit of your complaint.
24. At no point did Respondent tell Brooks that she did not feel comfortable filing the DPOR complaint due to the bankruptcy. In fact, she twice told Brooks that the DPOR complaint would be prepared shortly and then never followed through.
25. Respondent also told Investigator Marshall that, rather than filing the DPOR complaint as promised, she focused on "more important things." She stated that the DPOR complaint was not going to resolve the issues Brooks and his family were facing, rather there were more important issues she was trying to work on with BB&T Bank and with trying to get the contractor to sign the

Termination of Contract and Release of Liens she repeatedly sent. Respondent said these were more important issues than getting DPOR to "smack the contractor's hand" which while being what Brooks wanted, was not going to provide any financial or other relief but would take time better spent pursuing the other issues with his case.

26. On March 23, 2021, Brooks' wife visited Respondent's office and picked up the client file and a refund check for \$4,200 drawn from Respondent's operating account.¹
27. On December 15, 2021, Brooks informed Investigator Marshall that he had filed DPOR complaints himself against the contractor and the engineer.
28. As part of her investigation, Investigator Marshall also performed an audit of Respondent's trust accounts. The audit revealed that Respondent was accepting advanced payments by credit card directly into her operating account. Since depositing Brooks' \$4,000 payment directly into her operating account, Respondent has purchased an automated accounting system and has established a system of depositing only earned fees into her operating account.

II. NATURE OF MISCONDUCT

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

For failing to file a DPOR complaint after promising to do so on two occasions:

RULE 1.3 Diligence

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

For failing to inform Brooks that Respondent was reluctant to file a DPOR complaint so that Brooks could make informed decisions about the continued representation:

RULE 1.4 Communication

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

For failing to deposit Brooks' \$4,000 attorney's fee into Respondent's trust account:

RULE 1.15 Safekeeping Property

¹ The additional \$200 was for a consultation fee presumably earned upon receipt.

(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.

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and Respondent tender to a subcommittee of the Third District Committee for its approval the agreed disposition of a Public Reprimand with Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Third District Committee. The term shall be met by one year from the date that the subcommittee approves this disposition and is as follows:

1. For a period of one (1) year following entry of this Order, Respondent hereby authorizes a Virginia State Bar Investigator to conduct unannounced personal inspections 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, and shall fully cooperate with the Virginia State Bar investigator.

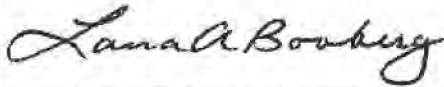
If the term is not met by one year from the date the subcommittee enters a disposition approving the Agreed Disposition, Respondent agrees that the District Committee shall impose a Certification to the Virginia State Bar Disciplinary Board for Sanction Determination pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed pursuant to

¶ 13-9.E of the Rules of the Supreme Court of Virginia.

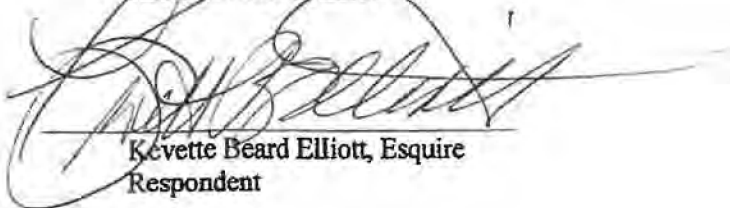
If the agreed disposition is approved, the Clerk of the Disciplinary System shall assess costs.

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 subcommittee considering this agreed disposition.

THE VIRGINIA STATE BAR



Laura Ann Booberg
Assistant Bar Counsel



Kevette Beard Elliott, Esquire
Respondent