

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF CHARLES EVERETT MALONE

VSB DOCKET NO. 06-000-0648

ORDER OF SUSPENSION

THIS MATTER came before the Board, pursuant to a duly issued notice, issued according to Part 6, Section IV, Paragraph 13.I.2.G. of the Rules of the Supreme Court of Virginia, requiring Charles Everett Malone to show cause why the alternative disposition contained in the Disciplinary Board determination (Order of Suspension with Terms) dated December 7, 2004 should not be imposed for his failure to abide by the required terms.

A hearing was held at 9:00 a.m. on Friday, October 28, 2005 in the General Assembly Building, House Room C, First Floor, 910 Capitol Street, Richmond, Virginia 23219. The Virginia State Bar was represented by Assistant Bar Counsel Edward L. Davis. Mr. Malone did not appear, despite his case being called both in the hearing room and the adjacent hall. The Bar proceeded in his absence.

The Board consisted of James L. Banks, Jr, 2nd Vice Chair; Stephen A. Wannall (lay member); William C. Boyce, Jr; Glenn M. Hodge; and H. Taylor Williams, IV. The members of the Board were polled as to whether any conflict or bias existed which would affect their ability to hear the case fairly, and all including the Chairman answered in the negative. The hearing was recorded and reported by Tracy J. Stroh, RPR, of the firm of Chandler and Halasz, P. O. Box 9349, Richmond, Virginia, (804) 730-1222.

I. FINDINGS OF FACT

The Board found the following to be matters of fact:

1. Mr. Malone was suspended on December 7, 2004 for several instances of misconduct relating to trust account violations, fees, competence, and diligence.
2. Mr. Malone's suspension was subject to a term which provided that he would issue a refund in the amount of \$3,060.00 to Vivian L. Warren no later than June 10, 2005. Subsequently, Mr. Malone requested and received an extension of the time within which he was required to pay the refund to August 31, 2005.
3. As of the date of this hearing, Ms. Warren has received no refund.
4. The alternate sanction, should Mr. Malone fail to satisfy this term, was an additional two year suspension.

II. DISPOSITION

The burden is on Mr. Malone to show cause why the alternate sanction should not be imposed. Mr. Malone has failed to meet his burden and the alternate sanction of an additional suspension of two years is hereby imposed. The additional suspension will be effective December 7, 2006, it being the intent of the Board to run the additional suspension consecutive to the original suspension.

The Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13.M of the Rules of the Supreme Court of Virginia and notify all appropriate persons about the suspension of his license if he is handling any client matters at the time. If the Respondent is not handling any client matters on the effective date of his license suspension, he shall submit an

affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13.M shall be determined by the Virginia State Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

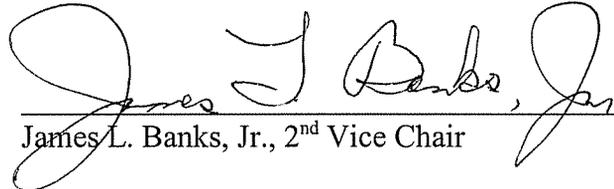
III.COSTS

Pursuant to Part 6, Section IV, Paragraph 13.B.8© of the Rules, the clerk of the Disciplinary System shall assess costs.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to respondent at his address of record with the Virginia State Bar, being The Law Firm of Charles E. Malone, 500 East Main Street, Suite 1218, Norfolk, Virginia 23510, by certified mail, return receipt requested, and by regular mail to Edward L. Davis, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 16th day of November, 2005

VIRGINIA STATE BAR DISCIPLINARY BOARD


James L. Banks, Jr., 2nd Vice Chair