

VIRGINIA:

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

**IN THE MATTER OF
MARCO FRANK BENDINELLI**

VS B Docket Nos. 15-000-100381

MEMORANDUM ORDER

This matter came to be heard on October 24, 2014, pursuant to a Rule to Show Cause and Order of Summary Suspension and Hearing, as to VSB Docket No. 15-000-100381, properly issued pursuant to Part 6, Section IV, Paragraph 13-24, of the Rules of the Supreme Court of Virginia, alleging that the Respondent has been suspended from the practice of law for a period of sixty (60) days, all stayed on the condition of the completion of a one-year period of probation with conditions, effective June 23, 2014, by the Supreme Court of the State of Colorado, Case No. 13PDJ073.

The matter was heard before a duly convened panel of the Virginia State Bar ("V.S.B.") Disciplinary Board (the "Board"), consisting of Tyler E. Williams, III, Chair, presiding; R. Lucas Hobbs, Esther J. Windmueller, Stephen A. Wannall (lay member), and Bretta M. Z. Lewis. The Virginia State Bar was represented by Paulo E. Franco, Jr., Assistant Bar Counsel. Respondent Marco Frank Bendinelli (hereinafter "Respondent" or "Mr. Bendinelli") appeared by letter but was not physically present at the date and time of the hearing. Virginia State Bar Clerk Sandra Heinzman, pursuant to Board procedures, called Mr. Bendinelli's name three times at 9:00 a.m. in the corridor outside of the Courtroom, but the Respondent did not appear. Court Reporter Tracy J. Stroh, Certified Court Reporter with Chandler & Halasz, P.O. Box 9349, Richmond, Virginia, 23327, (804) 730-1222 after being duly sworn, reported the hearing and transcribed the proceedings.

The Chair opened the hearing by polling the members of the Board for information regarding whether any of the members has a personal or financial interest which would preclude

fairly hearing the matter. Each member, including the Chair, individually responded that he/she has no such conflict. The matter proceeded without a personal appearance by Mr. Bendinelli.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (Clerk) in the manner prescribed by the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-24 of the Rules of Court.

The Board entertained opening statements from the Virginia State Bar and received evidence. The VSB introduced (1) a copy of an Order entered on June 23, 2014 by the Supreme Court for the State of Colorado ordering suspension of Respondent's license to practice law in the State of Colorado for a period of sixty (60) days, all stayed upon the successful completion of a one year period of probation; (2) a copy of the Rule to Show Cause and Order of Summary Suspension and Hearing; (3) a copy of a Termination of Interim Suspension Order and (4) A letter from Respondent stating that he would not be present at the hearing and that he is aware that the Virginia State Bar would be imposing an identical sanction on him as the sanction imposed in Colorado. No further evidence or argument was presented, as the Respondent was not present.

After due consideration and Respondent's letter response to the Rule to Show Cause and Order of Summary Suspension, the Board finds that Respondent failed to establish by clear and convincing evidence any of the grounds of defense found in Part 6, Section IV, Paragraph 13-24(B) of the Rules of Court that (1) the record of the proceedings in the State of Colorado clearly shows that such proceeding was so lacking in notice or opportunity to be heard as to constitute a denial of due process; (2) the imposition by the Board of the same discipline upon the same proof would result in a grave injustice; or (3) the same conduct would not be grounds for disciplinary action or for the same discipline in Virginia.

Having made these findings, the Disciplinary Board **ORDERS** that pursuant to Part 6, Section IV, Paragraph 13-24(G) of the Rules of Court, the same discipline that was imposed in Colorado be imposed in Virginia and the Respondent's license to practice law in Virginia be suspended for a period of 60 days, with the suspension stayed on the condition that the Respondent complete a one year period of probation and complies with the terms contained in the Colorado Order. The period of probation was effective June 23, 2014, the date of entry of the Colorado Order, and the probationary period shall expire on June 23, 2015, barring any further misconduct by the Respondent.

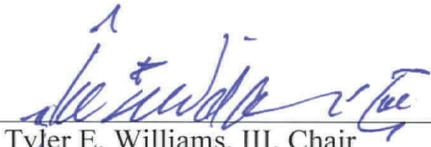
Due to the stay of the suspension, there is no requirement that the Respondent notify his clients of the suspension, as he is permitted to practice law during the probationary period.

It is **ORDERED** that in accordance with Part 6, Section IV, Paragraph 13-9(E) of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against Respondent.

It is further **ORDERED** that the Clerk shall mail an attested copy of this Order to Respondent, Marco Frank Bendinelli, by certified mail at his address of record with the Virginia State Bar, 9035 Wadsworth Parkway, Suite 4000, Westminster, Colorado 80021, by regular mail to Respondent's Counsel, Nancy L. Cohen, Miletech Cohen, 1660 Wynkoop, Suite 1160, Denver, Colorado, 80202, and hand-delivered to Paulo E. Franco, Assistant Bar Counsel, Virginia State Bar, Bank of America Building, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-3565.

ENTERED THIS 17th DAY OF NOVEMBER 2014

VIRGINIA STATE BAR DISCIPLINARY BOARD


Tyler E. Williams, III, Chair