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VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF NORFOLK

IN THE MATTER OF  
JEFREY GREG BOOTH  
VSB Docket No. 12-021-092018

Case No. CL13-5566

MEMORANDUM ORDER

This matter came on to be heard on September 13, 2013 by duly noticed teleconference upon a proposed Agreed Disposition entered into between the parties, which was presented to a duly impaneled Three-Judge Court consisting of The Honorable Stephen C. Mahan, Judge of the Second Judicial Circuit, Chief Judge presiding ("Chief Judge"), The Honorable Daniel T. Balfour, Retired Judge of the Fourteenth Judicial Circuit, and the Honorable Aundria Deloris Foster, Retired Judge of the Seventh Judicial Circuit (collectively "Panel"). The Virginia State Bar appeared through Assistant Bar Counsel M. Brent Saunders, and the Respondent appeared personally and through his counsel Allan D. Zaleski.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, applicable in this case pursuant to Section 54.1-3935 of the Code of Virginia, 1950, as amended, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Panel.

The Chief Judge swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chief Judge, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary

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record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Panel reconvened and announced its unanimous acceptance of the Agreed Disposition.

### I. FINDINGS OF FACT

The Panel finds the following facts by clear and convincing evidence as stipulated by the parties:

1. At all times relevant hereto, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In late 2009, the Norfolk Office of the Public Defender was appointed to represent the complainant, George Freeland ("Freeland"), on two larceny charges. Respondent, an Assistant Public Defender in the office at the time, was assigned to handle the matters. Freeland was convicted of a single grand larceny charge, and on December 9, 2011, was sentenced to an active period of incarceration of 1 year and 8 months.
3. Freeland made allegations in his bar complaint that, if true, would constitute ethical misconduct on the part of Respondent. Specifically, Freeland alleged Respondent had: i) agreed to file a motion for reconsideration of Freeland's prison sentence following Freeland's sentencing in a probation violation case in Chesapeake and never filed any such motion; and ii) failed to provide Freeland with a copy of his file despite his repeated written requests.
4. On July 23, 2012, in conjunction with the investigation of Freeland's bar complaint and pursuant to Part Six, Section IV, Paragraph 13-7.A.4 and 13-8.A.5 of the Rules of Court, the Second District Committee, through Bar Counsel, issued a Subpoena *Duces Tecum* ("SDT") to Respondent commanding him to produce, on or before August 13, 2012, copies of all correspondence to or from Freeland and all pleadings filed on Freeland's behalf following his

sentencing on December 9, 2011. The SDT was sent to Respondent by certified mail at his address of record for membership purposes with the Virginia State Bar ("Bar"). Respondent personally signed the certified mail return receipt on August 10, 2012. Respondent did not produce any documents or respond to the SDT in any manner by the August 13, 2012 deadline.

On August 17, 2012, another copy of the SDT was mailed to Respondent at his address of record for membership purposes with the Bar along with a letter advising him, *inter alia*, that a notice of noncompliance would be filed and the suspension of his law license would be requested if a response was not received by August 27, 2012. Respondent did not produce any documents or respond to the SDT in any manner by the August 27, 2012 extended deadline.

On August 30, 2012, a Notice of Noncompliance and Request for Interim Suspension ("Notice") was filed with the Disciplinary Board. The Notice stated Respondent's license to practice law in the Commonwealth of Virginia would be suspended unless he filed, by September 9, 2012, a petition with the Disciplinary Board requesting a hearing and the withholding of the interim suspension of his law license. A copy of the Notice was sent to Respondent by certified mail at his address of record for membership purposes with the Bar, and was signed for by a Tarine Hyman on August 31, 2012. Respondent failed to file any petition with the Disciplinary Board. As a result, the Disciplinary Board issued an Interim Suspension Order on September 11, 2012, pursuant to which Respondent's license to practice law in the Commonwealth of Virginia was suspended effective September 11, 2012. On September 11, 2012, a copy of the Interim Suspension Order was sent to Respondent by certified mail at his address of record for membership purposes with the Bar.

On September 20, 2012, Respondent produced documents responsive to the SDT, and the following day the interim suspension of his law license was lifted.

5. Respondent continued to practice law in the Commonwealth of Virginia between

September 11, 2012 and September 21, 2012, by, *inter alia*, meeting with multiple clients and making court appearances as legal counsel for approximately 20 clients.

6. The SDT constituted a lawful demand from the Second District Committee/Bar Counsel for information material to the investigation of Freeland's complaint. Respondent's failure to timely respond to the SDT delayed and impeded that investigation.

## II. NATURE OF MISCONDUCT

The Panel finds that such conduct by Jeffrey Greg Booth constitutes misconduct in violation of the following Rules of Professional Conduct as stipulated by the parties:

### **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

### **RULE 5.5 Unauthorized Practice Of Law; Multijurisdictional Practice of Law**

...  
(c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

### **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:

...  
(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6

## III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, it is hereby **ORDERED** that the license of Respondent, Jeffrey Greg Booth, to

practice law in the Commonwealth of Virginia, be, and the same hereby is, **SUSPENDED** for a period of thirty (30) days effective October 3, 2013.

It is further **ORDERED** that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he 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 his care in conformity with the wishes of his clients. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters. If Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days of the effective day of the suspension.

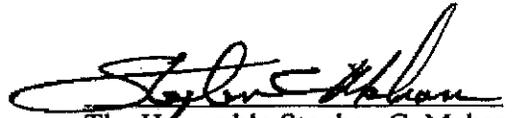
It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of this Court shall send a copy *teste* of this order to Respondent, Jeffrey Greg Booth, by certified mail, at 1021 Hugo Street, Norfolk, VA 23513, his address of record with the Virginia State Bar; and send copies *teste* by regular mail to

Respondent's counsel, Allan D. Zaleski, at Protogyrou & Rigney, P.L.C., 500 E. Main Street, Suite 1520, BB & T Building, Norfolk, VA 23510; Assistant Bar Counsel M. Brent Saunders and Barbara Sayers Lanier, Clerk of the Disciplinary System, Virginia State Bar, Eighth and Main Building, Suite 1500, 707 East Main Street, Richmond, Virginia 23219.

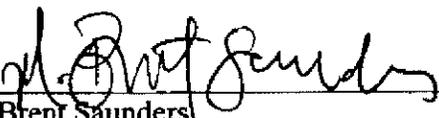
Tracy J. Stroh of Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227, was the court reporter for the hearing and transcribed the proceedings.

ENTERED this 24<sup>th</sup> day of September, 2013.

  
The Honorable Stephen C. Mahan  
Chief Judge

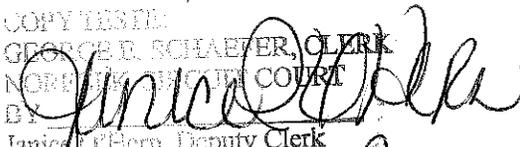
SEEN AND AGREED:

VIRGINIA STATE BAR

By:   
M. Brent Saunders  
Assistant Bar Counsel

AND

  
Allan D. Zaleski  
Respondent's Counsel

COPY TESTED  
GEORGE E. SCHAEFER, CLERK  
NORFOLK DISTRICT COURT  
BY:   
James O'Hern, Deputy Clerk  
Authorized to sign on behalf  
of George E. Schaefer  
Date: 9-30-13