

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
BARBARA LYN BRACKETT
VSB Docket No.: 09-000-079217

ORDER AND OPINION

This matter came before the Virginia State Bar Disciplinary Board (“Board”) for hearing on June 26, 2009, upon a Rule to Show Cause and Order of Suspension and Hearing entered on May 26, 2009 (“Rule”). A duly convened panel of the Board consisting of William E. Glover, 2nd Vice Chair, presiding, Paul M. Black, John Sykes Barr, Glenn M. Hodge, and Stephen A. Wannall, lay member, heard the matter. Paulo E. Franco, Jr., Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (“VSB” or “Bar”). The Respondent, Barbara Lyn Brackett (“Respondent”) appeared *pro se*. The court reporter for the proceeding, Tracey J. Johnson, Chandler and Halasz, P. O. Box 9349, Richmond, Virginia 23227, telephone 804-730-1222, was duly sworn by the Chair.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”), in the manner prescribed by law. Part Six, §IV, ¶13-22 of the Rules of the Supreme Court, *Board Proceedings*

Upon a Guilty Plea or Adjudication of a Crime provides, in relevant part, that following the issuance of a show cause order and order of suspension, the Board shall serve upon the Respondent by certified mail a copy of the suspension or revocation notice, a copy of the Board's Order, and a notice fixing the time and place of a hearing to determine what action should be taken in response to the suspension or revocation notice and stating the purpose of the hearing. The Board finds that the Clerk of the Disciplinary System has complied with these requirements by forwarding a certified letter dated May 27, 2009, return receipt requested to Respondent's address of record. Respondent did not file a response to the Rule.

The Chair opened the hearing by polling the Board members to ascertain whether any member had any personal or financial interest or bias which would interfere with or influence each such member's determination, and each member, including the Chair, responded that there were no such conflicts.

Bar counsel introduced the Rule to Show Cause and Order of Suspension together with the Trial Advisement and Plea from the Fairfax County General District Court showing the Respondent had pled guilty to misdemeanor bad check charge (Virginia Code Section 18.2-181) and the

arrest warrant. The Respondent received a 90 day suspended sentence and made restitution in the amount of \$3205. The Bar then rested.

The Respondent then testified that she had written the check to pay for a piece of furniture that she had ordered for delivery and while she knew at the time the check was written that there were insufficient funds to cover it, she was supposed to have a funds transfer to her account from her former husband but he failed to make the transfer. When she learned that there were insufficient funds she immediately contacted the merchant and agreed to provide a second check for deposit; however that check was immediately presented and dishonored before funds were transferred to her account. She had entered the guilty plea on the advice of an attorney friend in order to get the matter resolved. Neither she nor her attorney friend understood the consequence that the misdemeanor guilty plea would have on her law license, apparently thinking that since the felony charge was reduced to a misdemeanor it would have no consequences. The Respondent also testified that her Bar license was inactive at the time she entered the guilty plea. The Respondent has no prior disciplinary record with the Bar.

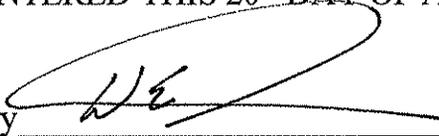
The Board then retired to consider the matter. The Board reconvened to announce that the Respondent had failed to show cause why her license should not be suspended as required by Part Six, §IV, ¶13-22 of the Rules of

the Supreme Court. The Board did find, however that the Respondent had shown good cause why the suspension should not be continued or her license revoked. Accordingly it is ORDERED that the Order of Suspension is hereby terminated this 26th day of June 2009.

It is ORDERED that the Clerk of the Disciplinary System shall assess all costs against the Respondent pursuant to Part Six, § IV, ¶ 13-9 E. 3. of the Rules of the Supreme Court of Virginia.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at her address of record with the Virginia State Bar, 125 Carter Court, Vienna, VA 212180, by certified mail, return receipt requested, and shall deliver by hand to Paulo E. Franco, Jr., Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED THIS 20th DAY OF AUGUST, 2009

By 

William E. Glover, 2nd Vice Chair