

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
STEPHEN JOSEPH CAPUTO

VSB DOCKET NO. 12-000-090762

MEMORANDUM ORDER

THIS MATTER came before the Virginia State Bar Disciplinary Board (“Board”) for hearing on June 22, 2012 upon a rule to Show Cause and Order of Summary Suspension and Hearing entered on May 24, 2012 (“Rule”). A duly convened panel of the Board consisting of Paul M. Black, Acting Chair, William H. Atwill, Jr., John Sykes Barr, Timothy A. Coyle, and Stephen A. Wannall, lay members, heard the matter. Alfred L. Carr, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (“VSB”). The respondent, Stephen Joseph Caputo, failed to appear. The court reporter for the proceeding, Lisa Mattson, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23222 (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 6, § IV, ¶ 13-24(A) of the Rules of the Supreme Court 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 date, time and place of a hearing to determine what action should be taken in response to the Suspension or Revocation Notice. The notice shall state that the purpose of the hearing is to provide Respondent an opportunity to show cause why the same discipline that was imposed in the other jurisdiction should not be imposed by the Board. The Board finds that the VSB has complied with these requirements by forwarding a certified letter dated May 30, 2012 containing the required notices to Respondent’s address of record. Respondent failed to file any written response, communications or other materials with the VSB.

The case was called by the Clerk and the Respondent's name was called in the lobby three times prior to the hearing. The Respondent failed to appear. The Chair inquired of each member of the panel whether he or she had any personal or financial interest that would preclude, or reasonably could be received to preclude, his or her hearing this matter impartially. Each member and the Chair answered in the negative.

The Board entertained opening statements from the VSB and received evidence. The VSB introduced as Exhibit 1 a copy of the May 30, 2012 letter sent Certified Mail to Respondent with the enclosed Rule to Show Cause and Order of Summary Suspension and Hearing which was returned to the VSB as "unable to forward." The VSB introduced as Exhibit 2 a copy of a June 11, 2012 letter to Respondent sent First Class Mail, enclosing a copy of the May 30, 2012 letter and the Rule to Show Cause and Order of Summary Suspension and Hearing. The Order recited Respondent's disbarment from the practice of law in the State of New York, effective January 4, 2010 and that pursuant to Rules of Court, Part 6, § IV, ¶ 13-24, the license of Respondent to practice law within the Commonwealth of Virginia was suspended effective May 24, 2012.

After due deliberation the board finds that Respondent failed to appear and show cause why the disbarment that was imposed in the State of New York should not be imposed by the Board; and has failed to establish by clear and convincing evidence that (1) the record of the proceeding in the State of New York clearly shows that such proceeding in the Supreme Court of the State of New York, Appellate Division, Second Judicial Department 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; and (3) the same conduct would not be grounds for disciplinary action or for the same discipline in Virginia. Part 6, § IV, ¶ 13-24 (B),(F).

Upon consideration of the matters before this panel of the board, it is hereby ORDERED that, pursuant to Part 6, § IV, ¶ 13-24(B),(G) of the Rules of the Supreme Court of Virginia, the

license of Respondent to practice law in the Commonwealth of Virginia shall be, and is hereby, revoked effective June 22, 2012.

It is FURTHER ORDERED, that, Respondent must comply with the requirements of Part 6, § IV, ¶ 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 revocation 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 give notice within fourteen (14) days of the effective date of this Order and make such arrangements as are required within forty-five (45) days of the effective date of this Order. The Respondent shall also furnish proof to the VSB within sixty (60) days that such notices have been timely given and such arrangements made for the disposition of such matter.

It is FURTHER ORDERED that if the Respondent is not handling any client matters on the effective date of the revocation he shall submit an affidavit to that effect to the Clerk. All issues concerning the adequacy of the notice and arrangements required by Paragraphs 13-29 shall be determined by the Board.

It is FURTHER ORDERED that in accordance with Part 6, § IV, ¶ 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 Opinion and Order to Respondent, Stephen Joseph Caputo, by certified mail, at his address of record, 215 Hallock Road, Suite 1B, Stony Brook, New York 11790 and by hand delivery to Alfred Carr, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803.

SO ORDERED, this 17th day of July 2012

By 
Paul M. Black, Acting Chair