

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
GARY BENNET CARGILL

VS. DOCKET NO. 13-000-093431

MEMORANDUM ORDER

THIS MATTER came before the Virginia State Bar Disciplinary Board (“Board”) for hearing on November 16, 2012 upon a Rule to Show Cause and Order of Summary Suspension and Hearing entered on October 18, 2012 (“Rule”). A duly convened panel of the Board consisting of Pleasant S. Brodnax, III, Acting Chair, Samuel R. Walker, Paul M. Black, William H. Atwill, Jr. and Robert W. Carter, lay member, heard the matter. Richard E. Slaney, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (“VSB”). The Respondent, Gary Bennet Cargill, failed to appear. The court reporter for the proceeding, Tracy Stroh, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23222, (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 October 23, 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 Clerk went into the hallway and called Respondent's name three times, but Respondent did not respond. The Chair inquired of each member of the panel whether he had any personal or financial interest that would preclude, or reasonably could be received to preclude, his hearing this matter impartially. Each member and the Chair answered in the negative.

The Board entertained an opening statement from the VSB and received evidence. The VSB introduced as Exhibit 1 a copy of the October 23, 2012 letter sent Certified Mail to Respondent with an enclosed attested Rule to Show Cause and Order of Summary Suspension and Hearing, entered on October 18, 2012. The Order recited Respondent's suspension for a period of six months and one day from the practice of law in the State of Arizona, effective March 23, 2012, 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 October 29, 2012.

After due deliberation the Board finds that Respondent failed to appear and show cause why the suspension imposed by the Supreme Court of the State of Arizona 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 Arizona clearly shows that such proceeding in the Supreme Court of the State of Arizona 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, suspended for a period of six months and one day effective October 29, 2012; and

It is FURTHER ORDERED that said suspension shall remain in effect in Virginia until Respondent shall provide appropriate evidence of his reinstatement to the bar of the State of Arizona as prescribed by its procedures for reinstatement; and

It is FURTHER ORDERED, that, Respondent must comply with the requirement 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 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 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; and

It is FURTHER ORDERED that if the 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. All issues concerning the adequacy of the notice and arrangements required by Paragraphs 13-29 shall be determined by the Board; and

It is FURTHER ORDERED that in accordance with Part 6, § IV, ¶ 13-9E of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against Respondent; and

It is FURTHER ORDERED that the clerk shall mail an attested copy of this Opinion and Order to Respondent, Gary Bennet Cargill, by certified mail, return receipt requested, at his address of record, 7739 E. Broadway Boulevard/PMB 288, Tucson, Arizona 85710 and by hand delivery to Richard E. Slaney, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803.

SO ORDERED, this 11th day of December 2012

By Pleasant S. Brodnax III
Pleasant S. Brodnax, III, First Vice Chair