

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
ANTHONY GEROME DAVIS

VSB Docket No.: 10-000-083444

AMENDED ORDER AND OPINION

This matter came before the Virginia State Bar Disciplinary Board (“Board”) for hearing on May 21, 2010 upon a Notice to Show Cause Hearing on Terms Failure entered on April 13, 2010 (“Show Cause”). A duly convened panel of the Board consisting of William H. Monroe, Jr., Chair, presiding, Pleasant S. Brodnax, III, Raighne C. Delaney, Randall G. Johnson, Jr., and Jody D. Katz, lay member, heard the matter. Richard E. Slaney, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (“VSB”). The Respondent, Anthony Gerome Davis, did not appear. The clerk called Respondent’s name three times in the foyer outside the courtroom and the Respondent did not answer. 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, ¶13-18(O) of the Rules of the Supreme Court, *Enforcement of Terms*, provides, in relevant part, that whenever it appears that the Respondent has not complied with the Terms imposed in a prior disposition, Bar Counsel shall serve notice requiring the Respondent to appear and show cause why the alternate disposition should not be imposed. Such a show cause

proceeding shall be set for hearing before the Board at its next available hearing date. The burden of proof shall be on the Respondent to show compliance by clear and convincing evidence. If the Respondent has failed to comply with the Terms of the prior disposition, the alternate disposition shall be imposed.

Procedural Background

By order of this Board entered on October 29, 2009 in VSB Docket No. 09-010-076193 (the “Prior Order”), the Respondent was found by clear and convincing evidence to have engaged in misconduct, specifically violating Rules of Professional Conduct 1.3 (Diligence), 1.4 (Communication), 1.15 (Safekeeping Property), 1.16 (Declining or Terminating Representation), and 8.1 (Bar Admission and Disciplinary Matters). The Prior Order accepted the terms of the Agreed Disposition entered into by the Bar and Respondent and suspended Respondent’s license to practice law for eight (8) months, effective October 19, 2009. The Prior Order required Respondent to “refund to the Complainant, Marisa Morgan, the sum of \$1,500, plus court costs and interest on the judgment she obtained, on or before February 28, 2010.” If respondent fails to make the refund in a “timely fashion”, the Prior Order provides that “the Board shall impose a four year suspension as an alternative sanction pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18 (O).”

Findings of Fact

Bar counsel made opening statements and offered VSB Exhibits 1 through 5, which were admitted. The Board finds the following:

1. On October 16, 2009, this Board found that the Respondent engaged in misconduct in violation of the Rules of Professional Conduct 1.3 (Diligence), 1.4

(Communication), 1.15 (Safekeeping Property), 1.16 (Declining or Terminating Representation), and 8.1 (Bar Admission and Disciplinary Matters).

2. The Board accepted the terms of the Agreed Disposition entered into by the Bar and Respondent. These terms included the requirement that Respondent refund to Complainant Marisa Morgan the sum of \$1,500, plus court costs and interest on the judgment she obtained, on or before February 28, 2010.

3. That as of May 21, 2010, Respondent has made no payments to Complainant Marisa Morgan.

At the conclusion of the evidence regarding the Show Cause, the Board recessed to deliberate. After deliberation, the Board reconvened and stated that it found that the Respondent did not prove by clear and convincing evidence compliance with the Prior Order, in that the Respondent has failed to refund any money to Complainant, and (ii) that the alternative disposition in the Prior Order, suspension for four (4) years, shall be imposed effective October 19, 2009.

Accordingly, it is

ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is SUSPENDED for four (4) years, effective October 19, 2009. It is further

ORDERED that the Respondent must comply with the requirements of Part 6, Section 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 also make appropriate arrangements for the disposition

of matters presently in his care in conformity with the wishes of his clients. The Respondent shall give such notice within fourteen (14) days of the effective date of the Suspension, and make such arrangements as are required within forty-five (45) days of the effective date of the Suspension. The Respondent shall also furnish proof to the VSB within sixty (60) days of the effective date of the Suspension that such notices have been timely given and such arrangements made for the disposition of matters. It is further

ORDERED that all issues concerning the adequacy of the notice and arrangements required by ¶13-29 shall be determined by the Board, unless Respondent makes a timely request for a hearing before a three judge court. It is further

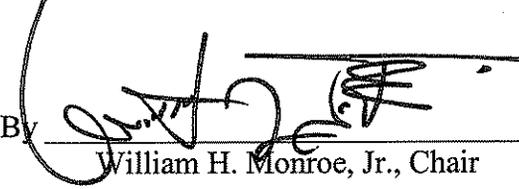
ORDERED that because the Respondent's license has been suspended for more than one year, the Respondent's license shall not be reinstated unless and until the Respondent fully complies with the provisions of Part Six, §IV, ¶13-25 H of the Rules of the Supreme Court. It is further

ORDERED that pursuant to Part Six, §IV, ¶13(B)(8)(c) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent. Finally, it is further

ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Order and Opinion to the Respondent Anthony Gerome Davis at his address of record with the Virginia State Bar, being 829 Arkadelphia Road, Birmingham, AL 35204 by certified mail, return receipt and by regular mail to Richard E. Slaney, Assistant Bar Counsel, 707 E. Main Street, Suite 1500, Richmond, VA 23219.

ENTERED THIS 15th DAY OF JUNE, 2010.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By  _____
William H. Monroe, Jr., Chair