

VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF

TRACEY SUZANN FOUGHTY-DEAVERS,

VS. B DOCKET NO.: 11-000-088251

MEMORANDUM ORDER OF REVOCATION

THIS MATTER came on to be heard on August 26th, 2011, before a panel of the Virginia State Bar Disciplinary Board consisting of Paul M. Black, Acting Chair, presiding, Michael S. Mulkey, Raighne C. Delaney, Samuel R. Walker, and W. Ray Inscoc, lay member. The Virginia State Bar was represented by Paul D. Georgiadis, Assistant Bar Counsel. The respondent, Tracey Suzann Foughty-Deavers, failed to appear even though all required notices of the date and place were timely sent by the Clerk of the Disciplinary System in the manner prescribed by law, and the Clerk called for Ms. Foughty-Deavers three times before the hearing began. The court reporter for the proceeding, Angela N. Sidener of Chandler & Halasz, P. O. Box 9349, Richmond, VA 23227, phone number 804/730-1222, was duly sworn by the Chair.

The Chair polled the members of the Board as to whether any of them had any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, and each member responded that there were no such conflicts.

Procedural History

The matter came on the Notice of Noncompliance and Petition for Rule To Show Cause Pursuant to Paragraph 13-29 filed by the Virginia State Bar (the "Bar"). More particularly, the Bar in its Notice of Noncompliance alleged as follows:

1. Part Six, §IV, ¶13-29 of the Rules of the Supreme Court of Virginia requires that upon the revocation or suspension of a license to practice law by either a Summary or Memorandum Order, a Respondent shall a) provide written notice of the revocation or suspension to clients, to opposing counsel, and to courts within 14 days of the effective date thereof; b) dispose of all matters in the lawyer's care in conformity with the wishes of the lawyer's clients within 45 days of the effective date thereof; and c) provide proof to the

Virginia State Bar of such notices and disposition of matters within 60 days of the effective date of the revocation or suspension.

2. On February 14, 2011, the Board issued its Interim Suspension Order of the law license of Respondent for failure to comply with the bar's *subpoena duces tecum* in VSB Docket No. 11-052-085600. The Board entered its Interim Suspension Order following the bar's Notice of Noncompliance and Request for Interim Suspension dated February 1, 2011 for Respondent's failure to respond in any form or fashion to the bar's *subpoena duces tecum* dated December 21, 2010 in the course of an ongoing investigation of a pending misconduct complaint.
3. Respondent remains suspended for her continued failure to respond to the bar's *subpoena duces tecum*.
4. In its Interim Suspension Order of February 14, 2011, the Board directed Respondent to comply with all requirements of ¶13-29 of the Rules of the Supreme Court of Virginia.
5. The Clerk of the Disciplinary Board repeatedly notified Respondent of her duties under ¶13-29 of the Rules of the Supreme Court of Virginia by letters dated February 15, 2011, April 7, 2011, and April 22, 2011.
6. Notwithstanding said repeated notices, Respondent has failed to provide the bar with any proof of compliance with ¶13-29 of the Rules of the Supreme Court of Virginia.
7. On April 22, 2011, the Board issued its Interim Suspension Order of the law license of Respondent for failure to comply with the bar's *subpoena duces tecum* in VSB Docket No. 11-052-086181. The Board entered its Interim Suspension Order following the bar's Notice of Noncompliance and Request for Interim Suspension dated April 7, 2011 for Respondent's failure to respond in any form or fashion to the bar's *subpoena duces tecum* dated February 23, 2011 in the course of an ongoing investigation of a pending misconduct complaint.
8. Respondent remains suspended for her continued failure to respond to the bar's *subpoena duces tecum*.
9. In its Interim Suspension Order of April 22, 2011, the Board directed Respondent to comply with all requirements of ¶13-29 of the Rules of the Supreme Court of Virginia.
10. The Clerk of the Disciplinary Board has notified Respondent of her duties under ¶13-29 of the Rules of the Supreme Court of Virginia by letter dated April 22, 2011.
11. Notwithstanding said notice, Respondent has failed to provide the bar with any proof of compliance with ¶13-29 of the Rules of the Supreme Court of Virginia.
12. Following her February 14, 2011 suspension, Respondent has failed to provide any notice of her suspension to clients Linda D. Hanks and Quy Ha. Nor has Respondent contacted said clients to make arrangements for the disposition of their matters for which they have retained and paid Respondent, respectively the preparation of a QDRO [Qualified

Domestic Relations Order] and a name change order.

The Board accepted into evidence the Bar's exhibits, as well as the testimony of the Bar's investigator, and considered the argument of Bar counsel, and upon due deliberation, the Board found that the Respondent failed to show cause why her license should not be further suspended or revoked. The Board then heard the evidence of aggravation and mitigation from the Bar, including the Respondent's prior disciplinary record, and upon further deliberation, the Board determined that Respondent's license to practice law in the Commonwealth of Virginia should be revoked, effective August 26, 2011. Accordingly, it is hereby

ORDERED that Respondent Tracey Suzann Foughty-Deavers's license to practice law in the Commonwealth of Virginia be and hereby is REVOKED, effective August 26, 2011.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, §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 Respondent's license to practice law in the Commonwealth of Virginia to all clients for whom Respondent 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 in Respondent's care in conformity with the wishes of Respondent's clients. Respondent shall give such notice within fourteen (14) days of the effective date of the revocation, and make such arrangements as are required herein within forty-five (45) days of the effective date of the revocation.

The Respondent shall also furnish proof to the Bar within sixty (60) days of the effective day of this order that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of this order, Respondent shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

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, §IV, ¶13-9.E.

It is further ORDERED that the Clerk of the Disciplinary System shall send a certified copy of this Order by certified mail to Tracey Suzann Foughty-Deavers at her last address of record with the Virginia State Bar at 11325 Random Hills Road, Suite 360, Fairfax, VA 22030, a certified copy to Tracey Suzann Foughty-Deavers at her residential address of 7518 Bosbury Court, Manassas, VA 20111, and shall hand-deliver a copy to Paul D. Georgiadis, Assistant Bar Counsel, 707 E. Main Street, Suite 1500, Richmond, VA 23219.

ENTERED this 2nd day of September, 2011.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: _____

Paul M. Black, Acting Chair