

**VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTERS OF  
DENNY PAT DOBBINS**

**VS B Docket Nos. 10-010-082581  
and 10-010-080201**

**MEMORANDUM ORDER**

This matter came on to be heard on May 10, 2012 by the Disciplinary Board of the Virginia State Bar (the Board) by teleconference upon an Agreed Disposition between the parties, which was presented to a panel of the Board consisting of J. Casey Forrester, John S. Barr, Samuel R. Walker, Jody D. Katz, lay member and Pleasant S. Brodnax, III, 2<sup>nd</sup> Vice Chair Presiding.

Richard E. Slaney, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and Respondent appeared in person *pro se*.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Panel.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Panel accepted the Agreed Disposition with two

caveats, both of which were expressly agreed to by the parties and are more fully set forth below.

### **I. FINDINGS OF FACT**

1. At all times in the matters detailed below the Respondent, Denny Pat Dobbins, (Dobbins), was an attorney licensed to practice law in the Commonwealth of Virginia.

#### **Two Criminal Appeals - VSB Docket No. 10-010-082581**

2. Dobbins served as counsel of record for one Clifton Newsome (Newsome) in a criminal appeal.

3. Dobbins filed a Notice of Appeal to the Virginia Court of Appeals in Newsome's case; however, that Court later dismissed the appeal due to the fact Dobbins filed a late Petition for Appeal.

4. Dobbins never advised Newsome of the dismissal of the appeal and never advised Newsome of the possibility of seeking a delayed appeal.

5. Dobbins served as counsel of record for one Darryl Halsey (Halsey) in a criminal appeal.

6. Dobbins filed a Notice of Appeal to the Virginia Court of Appeals in Halsey's case; however, that Court later dismissed the appeal due to the fact Dobbins filed no Petition for Appeal or a withdrawal of the appeal.

7. Dobbins would testify he had one day to file the appeal of the probation violation and pursue reconsideration. Dobbins noted the appeal. The Court denied the reconsideration and, although requested by Dobbins, the Court would not let Halsey in the program he desired; but with Dobbins' help, Halsey was able to get into a different drug program later. The appeal of the probation violation was not Halsey's real consideration and was not further pursued. Halsey has

told the Bar he does not wish to testify or otherwise pursue the matter.

The Simmer Matter - VSB Docket No. 10-010-080201

8. In 2002, Dobbins represented Peggy and Edward Simmer (the Simmers) in a claim against Chuck Fisher (Fisher). Dobbins obtained a default judgment against Fisher in Suffolk Circuit Court; however, in 2002 Fisher filed a Chapter 7 bankruptcy petition (Fisher's Bankruptcy).

9. In 2003, Dobbins filed a Complaint Objecting to Discharge in Fisher's Bankruptcy. Fisher did not respond, and Dobbins tendered and the Bankruptcy Court entered an order granting the Simmers relief from the automatic stay on November 23, 2003 (the Nov. Order).

10. After entry of the Nov. Order, the Bankruptcy Court realized the language in that order was inappropriate and therefore entered an order vacating the Nov. Order (the Vacation Order). The Vacation Order, as well as a subsequent Notice of Failure to Prosecute as well as an Order Dismissing Pleading or Adversary Proceeding was sent by the Bankruptcy Court to Dobbins; however, Dobbins would testify he did not receive those mailings.

11. Dobbins did post-judgment discoveries and interrogatories that revealed no assets of Fisher.

12. Dobbins filed nothing further in the Fisher Bankruptcy and Fisher, after changing counsel, received a Chapter 7 discharge without any exception for the Simmer's judgment.

13. Not having heard from Dobbins in some time despite leaving messages for him, in late 2006 the Simmers consulted Joshua Pretlow, Jr., (Pretlow) and for the first time learned their judgment against Fisher had been discharged in bankruptcy. Pretlow wrote to Dobbins about the matter but did not receive a response. The Simmers deny Dobbins advised them of any

conversion to a Chapter 13 bankruptcy or any other circumstance which would subject their judgment to the bankruptcy discharge.

14. In responding to the Simmer's bar complaint, Dobbins claimed Fisher's attorney indicated he would convert to a Chapter 13 bankruptcy, making a contest over a discharge of the Simmer's judgment moot and leaving no basis for collecting or further pursuing it. The last order was December 10, 2003. Dobbins' file from 2003 had been stored in the reduction of the office to one-third (1/3) of its size and cannot be found.

## **II. NATURE OF MISCONDUCT**

The Disciplinary Board finds that such conduct by Denny Pat Dobbins constitutes misconduct in violation of the following Rules of Professional Conduct:

### **RULE 1.3     Diligence**

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

### **RULE 1.4     Communication**

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

### **RULE 1.16    Declining Or Terminating Representation**

- (c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable rules of court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.
- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

### **III. IMPOSITION OF SANCTION**

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that the law license of the Respondent, Denny Pat Dobbins, be suspended for a period of three months beginning July 1, 2012. At the teleconference, the Board recommended and both the Respondent and the Bar specifically agreed that: (1) the Respondent shall take on no new clients or matters from May 10, 2012 through July 1, 2012; and (2) the Respondent shall give the notice required by Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia within fourteen days of the date of this teleconference (May 10, 2012) rather than within fourteen days of the effective date of the suspension (July 1, 2012).

It is further **ORDERED** that Respondent comply with the requirements of Part Six, Section IV, Paragraph 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 then in his care in conformity with the wishes of his client. Respondent shall give such notice within 14 days of May 10, 2012, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension 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 the suspension, he 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, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a certified copy of this order to Denny Pat Dobbins by certified mail to his last address of record with the Virginia State Bar, One Guardian Ct, Suite 100, Portsmouth, VA 23704, and by hand to Richard E. Slaney, Assistant Bar Counsel for the Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219.

Tracy Stroh, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, was the court reporter for the hearing and transcribed the proceedings.

ENTERED: May 15, 2012

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Pleasant S. Brodnax  
Pleasant S. Brodnax, III, 2<sup>nd</sup> Vice Chair Presiding