

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
DAVID RICHARDS DUBOSE**

VSB Docket No. 15-032-101878

MEMORANDUM ORDER

This matter was heard on May 15, 2015, before a duly convened panel of the Virginia State Bar Disciplinary Board (the “Board”) on the District Committee for Certification for Sanction Determination of the Third District Committee, Section II, pursuant to Part 6, §IV, ¶ 13 - 20 of the Rules of the Supreme Court of Virginia. The Board impaneled for this matter consisted of William H. Atwill, Chair, Anderson Wade Douthat, IV, Lay Member, John A. C. Keith, Tony H. Pham, and Samuel R. Walker. The Virginia State Bar (“Bar”) was represented by Renu M. Brennan, Assistant Bar Counsel. The Respondent, David Richards DuBose (the “Respondent”) was present and represented himself in connection with this matter.

The Chair polled the members of the Board as to whether any of them had any personal or financial interest or bias which would prevent any of them from fairly hearing this matter and serving on the panel, and each member responded that the member had no such interest or conflict. Tracy J. Stroh, a certified court reporter, Chandler & Halasz, PO Box 9349, Richmond, Virginia 23227 (804) 730-1222, after duly being sworn, reported the hearing and transcribed the proceedings.

The Chair noted that the Board had been advised that Craig S. Cooley, who had represented Respondent at the District Committee hearing, had written to indicate that he was unavailable to appear on the hearing date. Consequently, the Respondent made a motion by letter dated May 14, 2015 for a continuance of the hearing date. The Bar announced that the Bar

and Respondent anticipated having a Joint Recommendation as to Sanction, in light of which announcement, Respondent withdrew his motion for continuance.

The Bar introduced its Exhibit 1, the District Committee Certification for Sanction Determination with two accompanying exhibits, (a) the Public Reprimand with Terms issued by the Subcommittee on August 18, 2014 and (b) the Notice of Show Cause Hearing issued by the Bar on February 14, 2015; and Exhibit 2, the transcript of the hearing before the Third District Committee, Section II, held on April 10, 2015 together with exhibits. Both Exhibits were received in evidence without objection. The Bar outlined the Joint Recommendation as to Sanction with terms and an alternative sanction of a six month suspension, and both the Bar and Respondent offered oral argument in support thereof. The Panel retired to deliberate, and having considered all the evidence before it, accepted the Joint Recommendation with terms.

I. FINDINGS OF FACT

The Board finds the following facts by clear and convincing evidence:

1. At all times referenced herein Respondent David R. DuBose has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On August 18, 2014, a Subcommittee of the Third District Committee, Section II approved an Agreed Disposition for a Public Reprimand with Terms as a resolution of four matters involving Respondent. See Exhibit 1 (a).
3. The Bar alleged that Respondent did not comply with Terms 2 & 3 of the Public Reprimand with Terms, and on February 24, 2015, the Bar issued a Notice to Show Cause Hearing pursuant to Part Six, Section IV, Paragraph 13-15.F. of the Rules of the Supreme Court of Virginia. The hearing was set for April 10, 2015. See Exhibit 1 (b).
4. On April 10, 2015, a hearing was held pursuant to the Rules of the Supreme Court, Part Six, Section IV, Paragraph 13-15.F., requiring Respondent to show cause why the alternate sanction of a Certification for Sanction Determination should not be imposed.
5. Respondent failed to show by clear and convincing evidence that he complied with Terms 2 & 3 of the Public Reprimand with Terms and failed to show cause as to why the alternative sanction of a Certification for Sanction Determination should not be imposed.

II. IMPOSITION OF SANCTION

Having considered all of the evidence before it and determined to accept the Joint Recommendation as to Sanction with terms and an alternative sanction of a six month suspension, the Board **ORDERS** that Respondent's license to Practice Law be suspended for a period of Fifteen (15) Days, such suspension to begin on May 19, 2015; and

It is further **ORDERED** that Respondent shall perform the following terms:

(1) By Friday May 22, 2015, Respondent shall have engaged Leslie Haley, Esq. (or another consultant acceptable to Renu M. Brennan, Esq.) to act as his consultant to review and make findings concerning Respondent's law practice policies, systems, and procedures. The burden shall be on Respondent to provide information on such alternative consultant to Ms. Brennan. Respondent shall provide a signed engagement letter with his consultant not later than Friday May 22, 2015.

(2) On or before July 1, 2015, the Respondent shall be responsible for ensuring that the consultant shall have previously reported to Ms. Brennan his or her findings and recommendations regarding the Respondent's law practice and shall provide written confirmation from the consultant that Respondent has fully complied with the consultant's findings and recommendations.

(3) On or before July 1, 2015, the Respondent shall certify in writing under oath to Ms. Brennan that he has installed and will consistently follow and use adequate docketing procedures to ensure that he keep his clients informed of the status of their cases and appeals, including procedures which ensure (1) the prompt return of client's telephone calls and (2) the

prompt sending of a letter to clients responding to their calls if Respondent is unable to reach them by telephone; and

It is further **ORDERED** that if Respondent does not comply with all specified terms, then a show cause hearing will be held before the Board on August 28, 2015, and Respondent shall bear the burden by clear and convincing evidence to show cause why the alternative sanction of a six month suspension, which shall exclude the fifteen day suspension, should not be imposed. Such hearing shall be governed by Part 6, §IV, ¶ 13-18 O; and

It is further **ORDERED** that Respondent must 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 is he currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client(s). Respondent shall give such notice within fourteen (14) days of the effective date of suspension, and make such arrangements as required herein within forty-five (45) days of the effective date of suspension. The Respondent shall also furnish proof to the Bar within sixty (60) days of the effective date of suspension if 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 suspension, he shall submit an Affidavit to that effect to the Clerk of the Disciplinary System of 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.

It is further **ORDERED** that pursuant to Part Six, §IV, ¶13-9 E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further **ORDERED** that the Clerk of the Disciplinary System shall mail an attested copy of this Order by certified mail, Return receipt requested, to Respondent, David Richards DuBose, at his address of record with the Virginia State Bar, being DuBose Law Office, P.L.C., P.O. Box 18233, Richmond VA 23226; and shall hand-deliver a copy to Renu M. Brennan, Assistant Bar Counsel, at 1111 East Main Street, Suite 700, Richmond, Virginia 23219-3565.

ENTERED this 9th day of June, 2015.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: _____
William H. Atwill, Vice Chair