

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

IN THE MATTER OF PAULINE MARJORIE EWALD
VSB DOCKET NO. 13-000-094773

ORDER OF REVOCATION

This matter came to be heard on May 17, 2013 before a duly convened panel of the Virginia State Bar Disciplinary Board ("Board") consisting of Paul M. Black, Chair Designate, James L. Banks, Jr., Bruce T. Clark, David R. Schultz and V. Max Beard, Lay Member. The Virginia State Bar (the "Bar") was represented by Kara L. McGehee, Assistant Bar Counsel. The Respondent, Pauline Marjorie Ewald, failed to appear. At the calling of the matter for hearing and upon Respondent's failure to appear, the Assistant Clerk for the Virginia State Bar exited the courtroom and called for the Respondent three times. Whereupon, the Respondent failed to respond or appear. Teresa L. McLean, court reporter, Chandler and Halasz, Inc., P.O. Box 9439, Richmond, Virginia 23227 (804)-730-1222, after having been duly sworn, reported the hearing and transcribed the proceeding. The Chair polled members of the Panel as to whether any of them was aware of any personal or financial interest they might have which would preclude them from fairly hearing the matter before them. Each member, including the Chair, responded in the negative.

All required notices were sent by the Clerk of the Disciplinary System to Respondent by Certified Mail at 12258 Deer Crossing Trail, Ashland, VA 23005, her last address of record with the Virginia State Bar. In addition, notices were sent by the Clerk of the Disciplinary System to Respondent's counsel, Craig Cooley, 3000 Idlewood Avenue, Richmond, VA 23221.

Procedural History

The matter came before the Board on a Petition for Show Cause Hearing Violation of Disciplinary Board Order, filed by the Bar in which it alleged as follows:

1. On November 16, 2012, the Board entered an Order of Interim Suspension effective immediately. The order was entered based on Respondent's failure to comply with a subpoena *duces tecum* issued by the Bar in the course of a Bar investigation.
2. The November 16, 2012 order required that Respondent comply with all requirements of Part 6, § IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia.
3. Respondent's suspension was terminated by another Board order entered December 4, 2012. The December 4, 2012 order did not excuse Respondent from complying with Part 6, § IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia.
4. Respondent has not complied with Part 6, § IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia as ordered by this Board.

Evidence Presented to the Board

In addition to the Exhibits entered into evidence, the Bar called three witnesses who, after being duly sworn, presented oral evidence on the record in the matter. Virginia State Bar Investigator Cam Moffet testified that she observed Respondent in the Chesterfield Circuit Court in October 2012 and that Respondent indicated that she saw no point in continuing her law practice. Ms. Moffet also testified that Respondent failed to notify the Chesterfield or Henrico Courts (in which she had pending matters) of her interim suspension.

Irene Scott testified that her son, Damon Scott, had been a client of Respondent's. Ms. Scott testified that neither she nor her son received written notice from Respondent following Respondent's interim suspension. At some point, Ms. Scott (on behalf of her son) requested a copy of her son's file. To date, neither Ms. Scott nor her son has received the requested file.

Respondent did not complete the representation of Ms. Scott's son and, thereafter, Respondent promised to refund the unearned portion of the attorney's fee. To date, Respondent has not refunded the unearned fee.

Cary Ann Kaywayge testified that she retained Respondent in 2011 to represent her in matters pending before the Amelia County Juvenile and Domestic Relations Court ("J & DR"). Ms. Kaywayge never received written notice from Respondent about an interim suspension. Respondent had notice of Ms. Kahwayge's hearing dates in the Amelia County J & DR Court yet failed to appear on one occasion. Ultimately, Ms. Kaywayge proceeded *pro se* in the pending matters in Amelia J&DR Court and never received any assistance from Respondent to retain substitute counsel.

Findings of Fact

Since Respondent failed to appear, all evidence was entered without objection and the facts in this matter are not disputed. On November 16, 2012, the Board entered an Order of Interim Suspension effective immediately. The order was entered based on Respondent's failure to comply with a subpoena *duces tecum* issued by the Bar in the course of a Bar investigation. The November 16, 2012 order required that Respondent comply with all requirements of Part 6, § IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Respondent's suspension was terminated by another Board order entered December 4, 2012. The December 4, 2012 order did not excuse Respondent from complying with Part 6, § IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Respondent has not complied with Part 6, § IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia as ordered by this Board.

Following her interim suspension, Respondent failed to properly advise her clients and the Courts in which she had pending matters of her suspension. Furthermore, Respondent failed to protect the interests of her clients when she did not assist them in obtaining substitute counsel, did not provide a file upon request, and did not refund an unearned fee. In short, not only did

Respondent fail to comply with the requirements of Part 6, § IV, Paragraph 13-29 but she abandoned her clients and failed to fulfill one of the most basic ethical duties of a licensed attorney to her clients: to protect the interests of the client. The abandoning of her clients as described is especially egregious.

Disposition

Upon hearing the testimony offered in this matter and reviewing the Exhibits entered herein, the Board finds by clear and convincing evidence that Respondent failed to comply with the requirements of Part 6, § IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia as imposed upon her by order of the Board entered on November 16, 2012. Upon such finding and following due deliberation of both the facts of the case at hand and evidence presented as to the appropriate sanction to be imposed, the Board **ORDERS** that the Respondent's license to practice law within the Commonwealth of Virginia be REVOKED, effective May 17, 2013.

It is further ORDERED that Respondent must comply with the requirements of Part Six, § 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 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. Respondent shall also make appropriate arrangements for the disposition of matters then 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 this order, and make such arrangements as are required herein within forty-five (45) days of the effective date of the revocation. 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 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 shall be determined by the Virginia State Bar Disciplinary Board, unless Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that, pursuant to Part 6, §IV, Paragraph 13-9 (E) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall send a certified copy of this Order by Certified Mail, to Respondent, Pauline Marjorie Ewald, at her last address of record with the Virginia State Bar, at 12258 Deer Crossing Trail, Ashland, VA 23005, and a copy hand delivered to Kara L. McGehee, Assistant Bar Counsel, 707 East Main Street, Richmond, Virginia 23219.

Entered: July 19, 2013

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: 

PAUL M. BLACK, CHAIR DESIGNATE