

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
RICHARD SCOTT GORDON

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VSB DOCKET NO.: 10-010-081800

MEMORANDUM ORDER OF SUSPENSION

THIS MATTER came on to be heard on February 17, 2012 before a panel of the Virginia State Bar Disciplinary Board consisting of Richard J. Colten, Acting Chair, presiding, Timothy A. Coyle, J. Casey Forrester, Samuel R. Walker, and the Rev. W. Ray Inscoe, lay member. The Virginia State Bar was represented by Richard E. Slaney, Assistant Bar Counsel. The Respondent, Richard Scott Gordon, appeared in person and represented himself. 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. The court reporter for the proceeding, Angela N. Sidener of Chandler & Halasz, Post Office Box 9349, Richmond, Virginia 23227, telephone: (804) 730-1222, after duly being sworn, reported the hearing and transcribed the proceedings.

This matter came before the Board on the Subcommittee Determination for Certification by a Subcommittee of the First District of the Virginia State Bar.

The respondent, Richard Scott Gordon, stipulated to the facts contained in the aforementioned certification. The exhibits of the Virginia State Bar, exhibits 1- 26, were

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The respondent, Richard Scott Gordon, stipulated to the facts contained in the aforementioned certification. The exhibits of the Virginia State Bar, exhibits 1- 26, were

admitted without objection. Based on the respondent's stipulation, the Board makes the following findings of fact on the basis of clear and convincing evidence:

I. FINDINGS OF FACT

1. At all times material to this matter, the respondent, Richard Scott Gordon, (Gordon), was an attorney licensed to practice law in the Commonwealth of Virginia.

2. In 2008, complainants, Martin Tinglehoff (Martin) and Bradley Tinglehoff (Bradley), hired Gordon for representation in regard to the estate of their father and actions taken by their brother, Rudy Tinglehoff (Rudy).

3. In August of 2008, Gordon filed suit against Rudy in the Circuit Court of the City of Hampton (the Court). Rudy filed an Answer and a Motion for Summary Judgment.

4. Rudy served Requests for Admissions on Gordon, who sought an enlargement of time in which to respond but also filed responses. Rudy moved the Court to test the sufficiency of the responses provided by Gordon.

5. In February of 2009, the Court denied Rudy's Motion for Summary Judgment and set a new hearing date on the Motion to Test Sufficiency of Responses.

6. In March of 2009, the Court deemed Rudy's First Set of Request for Admissions as admitted and awarded Rudy's counsel \$975. Also that month, Gordon lodged an Amended Complaint with the Court.

7. At this point, Gordon began to fail to respond to attempts by Martin and Bradley to communicate with him.

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7. At this point, Gordon began to fail to respond to attempts by Martin and Bradley to communicate with him.

8. In April of 2009, Rudy served on Gordon his First Set of Interrogatories and Requests for Production of Documents and his Second Set of Requests for Admissions (the Second Set of Discovery).

9. In August of 2009, Rudy filed a Motion for Partial Summary Judgment; Motion to Deem Admissions Admitted Pursuant to Rule 4:11 and Motion to Compel Discovery. These motions were based, in large part, on the fact Gordon failed to respond to the Second Set of Discovery.

10. Subsequently, Gordon filed a Motion for Nonsuit. At that time both Martin and Bradley were unaware of Gordon's intention to seek a nonsuit or of the fact Gordon failed to respond to the Second Set of Discovery. At some point, Bradley called the Court and learned of Gordon's nonsuit request.

11. Bradley and Martin hired new counsel, who made an appearance before the Court in late September 2009.

12. The Court entered an order allowing the nonsuit on October 20, 2009. At that time, Gordon also agreed to pay Rudy's counsel \$9,500.

II. NATURE OF MISCONDUCT

The certification charged violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.
- (b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

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- (c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

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.
- (b) A lawyer shall explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- (c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

RULE 3.4 Fairness to Opposing Party and Counsel

A lawyer shall not:

- (e) Make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party.

III. DISPOSITION

After review of the foregoing findings of fact, the exhibits presented by Bar Counsel on behalf of the Virginia State Bar, and the stipulation from the Respondent, the Board recessed to deliberate. After due deliberation, the Board reconvened and stated its findings as follows:

1. The Board determined that the Bar did prove by clear and convincing evidence that the Respondent was in violation of Rules 1.3(a),(b) and (c), Rule 1.4(a), (b) and (c), and Rule 3.4(e).

- (c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

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1. The Board determined that the Bar did prove by clear and convincing evidence that the Respondent was in violation of Rules 1.3(a),(b) and (c), Rule 1.4(a), (b) and (c), and Rule 3.4(e).

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar, including Respondent's prior disciplinary record, and testimony from the Respondent. The Board also considered that the Respondent failed to provide a written answer to the Complaint, as demanded by the Bar on December 3, 2009, VSB Exhibit 22, and as required by Rule 8.1(c) of the Virginia Rules of Professional Conduct. The Respondent moved to continue the hearing as to the disposition, but the Board denied the Respondent's motion for a continuance. The Board recessed to determine what sanctions to impose upon its findings of misconduct by Respondent. After due deliberation, the Board reconvened to announce the sanction imposed. The Chair announced the sanction as a suspension of the Respondent's license for a period of three (3) months.

Accordingly, it is ORDERED that the license of the Respondent, Richard Scott Gordon, be suspended as of February 17, 2012 for a period of three (3) months.

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 he 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 his care in conformity with the wishes of his client(s). Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date

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of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective date of the 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 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 a 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 by certified mail to Richard Scott Gordon at his last address of record with the Virginia State Bar at Suite 1, 708 Thimble Shoals Boulevard, Newport News, Virginia 23606; and shall hand-deliver a copy to Richard E. Slaney, Assistant Bar Counsel, at 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 22 day of February, 2012.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: 
Richard J. Colten, Acting Chair

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