

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
GORDON EARL HANNETT, JR.**

VSB Docket No. 09-101-078537

MEMORANDUM ORDER

This matter came on to be heard on October 15, 2010, 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 Pleasant S. Brodnax, III, Raighne C. Delaney, Samuel R. Walker, Werner H. Quasebarth, lay member, Panel Members, and Thomas R. Scott, Jr., First Vice Chair and Chair of the Panel (Chair), presiding (the Panel).

Renu Mago Brennan, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and Respondent Gordon Earl Hannett, Jr., appeared *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 for a Public Reprimand with Terms 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 unanimously accepted the Agreed Disposition.

I. FINDINGS OF FACT

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

1. At all relevant times, Respondent was licensed to practice law in the Commonwealth of Virginia.
2. In late 2007, Respondent, the then out-going Commonwealth's Attorney for Floyd County, disabled computer software and removed computer hardware, specifically the hard drives, from three office computers which belonged to the Floyd County Commonwealth's Attorney's Office. Two of the hard drives Respondent removed were the hard drives of the computers to be used by the incoming Commonwealth's Attorney.
3. Respondent asserts he destroyed all three hard drives which he had removed from the Floyd County Commonwealth Attorney's Office.
4. Using public funds, Respondent purchased three new hard drives for the Floyd County Commonwealth's Office. Respondent asserts that he removed and replaced these hard drives in order to upgrade the three office computers.
5. Respondent asserts he attempted, but was unable, to reinstall the operating systems or the software on the three office computers.
6. Respondent did not save any of the information removed from the three hard drives to the shared server. Respondent asserts that he left all of the corresponding paper documents in their case files.

7. On January 1, 2008, Stephanie Murray Shortt, Esq., the newly elected Commonwealth's Attorney, took office. On her first day in the office, Ms. Shortt asserts she was unable to access any information on the three office computers because Respondent had failed to re-install the office software on these computers. Accordingly, Ms. Shortt had the Floyd County computer expert evaluate the computers, and she called the Virginia State Police who also analyzed the computers.
8. Respondent was subsequently charged by summons with three counts of petit larceny and three counts of disabling computer software under Virginia's Computer Crimes Act. The matter was pending in Floyd County General District Court. Douglas Vaught, Commonwealth's Attorney of Grayson County, was appointed Special Prosecutor to handle the matter against Respondent.
9. Respondent reached an agreed disposition pursuant to which the charges against Respondent were dismissed and the case expunged from the record in exchange for Respondent's payment of \$3,500.00 as reimbursement for the hard drives and 100 hundred hours of community service. Upon information and belief, the \$3,500.00 paid by Respondent exceeded the costs of the reinstallation of the operating systems and software.
10. Because of Respondent's actions and the ensuing investigation, Ms. Shortt could not use the office laptop computer, as well as her desktop computer, for the period of the investigation, which was approximately one year. The removal of the computers was disruptive to Ms. Shortt's transition and the administration of justice.

II. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by Gordon Earl Hannett, Jr. constitutes misconduct in violation of the following Rules of Professional Conduct:

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** and **IMPOSES** a **PUBLIC REPRIMAND WITH TERMS** upon Respondent effective October 15, 2010. The terms with which the Respondent must comply are as follows:

For a period of one year following the entry of this Memorandum Order, the Respondent shall not engage in any conduct that violates the Virginia Rules of Professional Conduct, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which Respondent may be admitted to practice law. The terms contained in this paragraph shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against the Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated one or more provisions of the Rules of Professional Conduct referred to above, provided, however, that the conduct upon which such finding was based occurred within the period referred to above, and provided, further, that such ruling has become final.

Upon satisfactory proof that such terms and conditions have been met within one year from the date of entry of this Memorandum Order, this matter shall be closed. If, however, all

the terms and conditions are not met by the deadline imposed above, the Respondent agrees that the Disciplinary Board shall impose a 30-day suspension pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

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 an attested copy of this order by Certified Mail, Return Receipt Requested, to Gordon Earl Hannett, Jr., at his last address of record with the Virginia State Bar being 210 West Main Street, Floyd, VA 24091 and a copy hand-delivered to Renu M. Brennan, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219.

Tracy J. Stroh, Chandler & Halasz, P.O. Box 9349, was the court reporter for the hearing and transcribed the proceedings.

ENTERED:

October 18, 2010

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Thomas R. Scott, Jr.
**Thomas R. Scott, Jr., First Vice Chair and Panel
Chair**