

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN RE: KRISTEN GRIM HUGHES

VSB DOCKET NO. 11-052-084557

OPINION AND ORDER

This matter came to be heard on March 23, 2012, before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Martha JP McQuade, 1st Vice Chair, presiding; Raighne C. Delaney; Michael S. Mulkey; Samuel R. Walker; and Reverend W. Ray Inscoe, lay member.

The Virginia State Bar was (hereinafter the “Bar”) was represented by Assistant Bar Counsel Paul D. Georgiadis. Bernard J. DiMuro, Esq. represented the Respondent Kristen Grim Hughes, who was present. Angela N. Sidener, a registered professional reporter, Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

I. PRELIMINARY MATTERS

This matter came before the Board upon a Subcommittee Determination (Certification) of a Fifth District Subcommittee, Section II (“Certification”).

The Chair opened the proceeding by polling the members as to whether any was conscious of any personal or financial interest which would preclude them from fairly hearing this matter and serving on the panel. Each member, including the Chair, responded in the negative.

II. MISCONDUCT PHASE

In accordance with rulings made at the Pre-hearing Conference in this matter, the Bar’s exhibits were collectively admitted as the Bar’s Exhibit 1, tabs A and B, and also tabs 1 through 18. Likewise, the Respondent’s exhibits were collectively admitted as the Respondent’s Exhibit 1, tabs 1 through 36. The Bar and Respondent’s Counsel then made opening statements.

The Bar called its investigator, Ronald McCall, as a witness. Mr. McCall testified upon direct examination and was cross examined by Respondent's Counsel. The Bar then called the Respondent as a witness. Respondent's Counsel elected not to cross examine the Respondent, advising the Board that he would call the Respondent to testify during the respondent's case in chief.

The Bar then rested and withdrew the charge of a violation of Rule 3.3(a) or Rule 4.1(a), but proceeded on the allegations of misconduct under Rule 5.5(c). Respondent's Counsel moved to strike the allegations that Rule 5.5(c) was violated and/or to remand the case to the local disciplinary committee, which motion was denied.

The Respondent's Counsel then called the Respondent as a witness. She was cross examined by the Bar. The Respondent then rested. The parties made closing arguments.

III. **FINDING OF FACTS**

After due deliberation, the Board unanimously found it had been proven by clear and convincing evidence that the Respondent had committed a violation of the following provision of the Rules of Professional Conduct:

Rule 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law

(c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

The violation was found based on the following facts also proven by clear and convincing evidence:

1. At all times relevant hereto the Respondent Kristen Grim Hughes has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. At all times relevant hereto, Respondent's official address of record with the Virginia State Bar was 7364 Montcalm Drive, McLean, VA 22101. This was also Respondent's long-time residence.

3. On January 8, 2010, the Virginia State Bar sent to Respondent at her address of record a 60 day notice of impending law license suspension entitled "Notice of Impending MCLE Suspension." This notice advised Respondent that she was still 7 hours short of her 2009 Mandatory Continuing Legal Education requirements and that she had until March 9, 2010 to fulfill said requirements along with paying all late fees.

4. On January 11, 2010, the bar e-mailed Respondent a further reminder and notice of the impending suspension of her law license and referenced the prior notice of January 8, 2010.

5. On January 27, 2010 and February 26, 2010, Respondent received further MCLE notices of noncompliance and impending law license suspension.

6. Notwithstanding actual receipt of notice of non-compliance and impending law license suspension, Respondent failed to respond in any form or fashion including providing proof of fulfilling the CLE hours and making payment of required fees.

7. At the expiration of the noticed 60 day deadline, the bar suspended Respondent's license to practice law on March 10, 2010 so that Respondent was no longer a member in good standing of the Virginia State Bar and no longer a member of the bar in good standing in the Supreme Court of Virginia. The bar issued notice of said suspension to Respondent's address of record by letter dated March 11, 2010. Said letter of notice of license suspension was also sent to the Clerk of the Supreme Court of Virginia.

8. On April 29, 2010 the bar sent Respondent a further notice by letter to her address of record advising of the impending publication of Respondent's name as a suspended attorney and the means to avoid said publication.

9. The Respondent was willfully indifferent to the bar's notices for a variety of professional and personal reasons.

10. Notwithstanding the suspension of her license to practice law in the Commonwealth of Virginia and loss of good standing in the Supreme Court of Virginia, and notwithstanding

Respondent's notice of such, Respondent continued to practice law in the Commonwealth of Virginia by conducting active litigation in matters including those in the General District Court of Fairfax County and the Circuit Court of Fairfax County. This included giving legal advice and conducting investigation, research and interviews on behalf of one or more clients; drafting and sending correspondence on behalf of one or more client(s); and drafting and filing pleadings with the courts in at least two matters.

11. The Respondent applied for a certificate of good standing from the United States District Court, Eastern District of Virginia, Alexandria Division, and received such on or about July 6, 2010 despite being ineligible for such.

12. On or about July 9, 2010 Respondent attempted to gain admission to the U.S. District Court, Western District of Virginia.

13. The U.S. District Court, Western District of Virginia, refused to admit her until she took steps to reinstate her license in good standing, and she took those steps on July 14, 2010.

IV. SANCTIONS PHASE

Upon commencement of the sanctions phase, the Bar made its opening statement, presented no additional evidence, and then rested. The Respondent's Counsel made an opening statement and the Chair admitted Respondent's Exhibit 2, a letter of support for the Respondent from Pleasant Broadnax, without objection. The Respondent's Counsel then called John Karl, Jr. and Miriam Patricia Valencia as witnesses in support of the Respondent and the Bar conducted no cross examination of them. The Respondent made a statement to the Board, assisted by her Counsel, and then the Respondent rested. The Bar and the Respondent's Counsel made closing arguments.

The Board then requested the Bar and Respondent's Counsel comment on the American Bar Association's Standards for Imposing Lawyer Sanctions and those standards that relate to factors in aggravation and mitigation of misconduct.

The Board then recessed to deliberate the case.

The Board determined that the Respondent's substantial experience in the practice of law and the Respondent's willful indifference to her professional obligations were aggravating factors in this matter. The Board also considered as mitigating factors the absence of any prior disciplinary record, the absence of any dishonest or selfish motive, the Respondent's cooperation with the Bar's investigation, the Respondent's reputation in the law, and evidence of personal problems. Based on the Respondent's conflicting statements, in which she alternated blaming others while also stating that she accepted responsibility, the Board was unable to find that the Respondent had accepted responsibility for her actions, but did not take this into account as an aggravating or mitigating factor.

Thus, after due deliberation, the Board announced its sanction, effective March 23, 2012, as a Public Reprimand with the following Terms: Above and beyond what the Bar requires otherwise, the Respondent must take an additional 12 credit hours of continuing legal education, in person, by March 22, 2013; the topics of such MCLE were strongly suggested to be topics related to the issues that brought Respondent where she is (law office management, time management, the importance of opening mail, balance of life); none of these additional 12 hours will count as a credit under the normal Virginia MCLE requirements. Provided the Respondent, achieves the normally required MCLE credits, and these additional 12 credit hour of MCLE, and certifies to the Bar that she has done so by April 1, 2013, then she will have satisfied the terms of the Public Reprimand. If she shall fails to do so, her sanction shall be a SUSPENSION for (thirty) days, effective April 1, 2013.

V. ORDER

ACCORDINGLY, it is ORDERED that Respondent Kristin Grim Hughes is hereby PUBLICLY REPRIMANDED with terms, as set forth in section IV of this Opinion and Order.

It is further ORDERED that pursuant to Part Six, Section IV, Paragraph 13-9E 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 to Respondent Kristin Grim Hughes, at her address of record with the Virginia State Bar, 1390 Chain Bridge Road, # 530, McLean, VA 22101, by certified mail, and to Bernard J. DiMuro, DiMuro Ginsberg, P.C., 1101 King Street, Suite 610, Alexandria, VA 22314. The Clerk of the Disciplinary System shall also mail or hand deliver a copy of this order to Paul D. Georgiadis, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 14th day of May, 2012.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Martha JP McQuade, First Vice Chair