

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
ROBERT WINTHROP JOHNSON, II

VSB Docket No.: 10-000-082004

ORDER AND OPINION

This matter came before the Virginia State Bar Disciplinary Board (“Board”) for hearing on February 19, 2010 upon a Rule to Show Cause and Order of Suspension and Hearing entered January 22, 2010 (“Rule”). A duly convened panel of the Board consisting of William H. Monroe, Jr., Chair, presiding, Richard J. Colten, J. Casey Forrester, Randall G. Johnson, Jr., and Jody D. Katz, lay member, heard the matter. M. Brent Saunders, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (“VSB”). The Respondent, Robert Winthrop Johnson, II, appeared *pro se*. The court reporter for the proceeding, Teresa L. McLean, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia, 23227, telephone 804-730-1222, was duly sworn by the Chair.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by law. Part Six, §IV, ¶13-24(A) of the Rules of the Supreme Court provides, in relevant part, that following the issuance of a show cause order and order of suspension, the Board shall serve upon the Respondent by certified mail a copy of the Suspension or Revocation Notice, a copy of the Board’s order, and a notice fixing the date, time and place of a hearing to determine what action should be taken in response to the Suspension or Revocation Notice. The notice shall state that the purpose of the hearing is to provide Respondent an opportunity

to show cause why the same discipline that was imposed in the other jurisdiction should not be imposed by the Board. The Board finds that the VSB has complied with these requirements by forwarding a certified letter dated January 26, 2010 containing the required notices to Respondent's address of record. Respondent filed a letter with the VSB dated February 5, 2010 wherein he did not object to the Rule or this proceeding. The letter and its filing, however, failed to comply with the specific requirements outlined in ¶13-24(B).

The case was called by the Clerk and the Respondent appeared *pro se*. The Chair inquired of each member of the panel whether he or she had any personal or financial interest that would preclude, or reasonably could be perceived to preclude, his or her hearing this matter impartially. Each member and the Chair answered in the negative.

The Board entertained opening statements from the VSB and Respondent and received evidence. The VSB introduced a copy of the Rule and its attached copy of a certified order of the District of Columbia Court of Appeals dated November 25, 2009 suspending Respondent's license to practice law in the District of Columbia for thirty days. The Order recited Respondent's violation of the District of Columbia's Rule of Professional Conduct 1.15(c) by failing to safeguard and hold in trust funds which he held at a time that a dispute arose among persons claiming an interest in them. Respondent introduced his February 5, 2010 letter to the VSB wherein Respondent explained his conduct.

After due deliberation the Board finds that Respondent failed to prove by clear and convincing evidence that (1) the record of the proceeding in the District of Columbia Court of Appeals clearly shows that such proceeding was so lacking in notice or

opportunity to be heard as to constitute a denial of due process; (2) the imposition by the Board of the same discipline upon the same proof would result in a grave injustice; or (3) the same conduct would not be grounds for disciplinary action or for the same discipline in Virginia. Part 6, §IV, ¶13(B) and (F).

Upon consideration of the matters before this panel of the Board, it is hereby ORDERED that, pursuant to Part 6, §IV, ¶13(B)(G) of the Rules of the Supreme Court of Virginia, the license of Respondent to practice law in the Commonwealth of Virginia shall be, and is hereby, suspended for a period of thirty days effective January 22, 2010.

It is FURTHER ORDERED that, as directed in the Board's January 22, 2010 Summary Order in this matter, a copy of which was served on Respondent by certified mail, Respondent must comply with the requirements of Part 6, §IV, ¶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. The Respondent shall give notice within fourteen (14) days of the effective date of this Order and make such arrangements as are required within forty-five (45) days of the effective date of this Order. The Respondent shall also furnish proof to the VSB within sixty (60) days that such notices have been timely given and such arrangements made for the disposition of such matters.

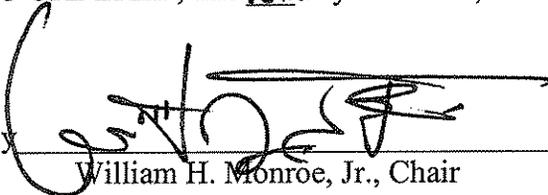
It is further ordered that if the Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk.

All issues concerning the adequacy of the notice and arrangements required by ¶13-29 shall be determined by the Board.

It is ordered that in accordance with Part Six, §IV, ¶13-9(E) of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against Respondent.

It is further ORDERED that the Clerk shall mail an attested copy of this Opinion and Order to Respondent, Robert Winthrop Johnson, II, by certified mail, return receipt requested, at his address of record, 801 Pennsylvania Avenue, N.W., Washington, DC 2004-2615 and by hand delivery to M. Brent Saunders, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803.

SO ORDERED, this 10th day of March, 2010.

By 
William H. Monroe, Jr., Chair