

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

IN THE MATTER OF  
John F. Kane, Respondent

VS B Docket Number: 15-000-099894

**ORDER OF SUSPENSION**

This matter came to be heard on August 22, 2014, before the Virginia State Bar Disciplinary Board on the Rule to Show Cause, dated the 15<sup>th</sup> day of July, 2014, with the attached Petition for A Rule to Show Cause for Violation of Board Order Per ¶13-29 and exhibits.

The matter was considered by a duly-convened panel of the Virginia State Bar Disciplinary Board consisting of Tyler E. Williams, III, Chair, Thomas O. Bondurant, Jr., Melissa W. Robinson, Samuel R. Walker, and Stephen A. Wannall, Lay Member. Paul D. Georgiadis, Assistant Bar Counsel, represented the Virginia State Bar and the Respondent, John F. Kane, appeared on his own behalf and was not represented by counsel. The court reporter attending the proceeding, Angela N. Sidener, with Chandler & Halasz, Post Office Box, P.O. Box 9349, Richmond, VA 23227, (804) 730-1222, was duly sworn by the chair and reported the hearing.

The Chair opened the hearing by polling the Board members to ascertain whether any member had any personal or financial interest or bias which would interfere with or influence such member's determination, and each member responded that each had no such interest or bias.

WHEREFORE, it appearing from the documentary evidence presented by the Virginia State Bar in its Petition for a Rule to Show Cause for Violation of Board Order Per ¶13-29, as follows:

1. By summary order entered on March 28, 2014, the Disciplinary Board suspended John F. Kane's license to practice law in the Commonwealth of Virginia for a period of one (1) year and one (1) day, effective March 28, 2014. The Board further ordered that Mr. Kane comply with all requirements of ¶13-29 of the Rules of the Supreme Court dealing with the

duties of a disbarred or suspended respondent to give notice of the revocation or suspension within 14 days of the effective date of the suspension to all clients for whom the lawyer is currently handling matters, and to provide to the Virginia State Bar proof of such notice within sixty days of the effective date of the suspension, among other requirements.

2. Mr. Kane moved the Supreme Court of Virginia for a stay of his suspension, which was denied, as was his motion to the Supreme Court for reconsideration.
3. Mr. Kane provided copies of the required notification letters, “that were sent to all of my clients that I was representing up until the date of my suspension March 28, 2014.” He thereby indicated he had two clients at that time, in his letter to the Bar, dated April 30, 2014.
4. However, in Mr. Kane’s motion to the Supreme Court of Virginia for reconsideration of its denial of a stay of his suspension, in which he also represented himself, he represented to the Court that, in addition to the aforementioned two clients, failing to stay his suspension could “seriously adversely affect the attorney’s other clients[,]” and, further asserted, “Several of his current clients who will suffer serious adverse consequences because it is unlikely that they will have adequate representation going forward.” He referred to “other current clients” in the motion and went on to identify two by initials and descriptions of their cases.
5. Subsequently, on June 17, 2014, the Bar wrote to Mr. Kane advising him he was not in compliance with the notice requirements as the proof provided to the Bar on April 29, 2014, related only to two previously identified clients. The Bar requested that he send proof to the Bar that notices had been sent to the additional clients identified in his Supreme Court Motion for Reconsideration of Stay by June 27, 2014, to avoid a show-cause hearing before the Board.
6. In Mr. Kane’s response to Bar Counsel, dated June 24, 2014, he denied that the persons

referred to in his Motion for Reconsideration to the Supreme Court were “active” clients at the time.

Mr. Kane, the Respondent, testified and argued at length before the Board claiming that the additional persons mentioned in his Motion for Reconsideration to the Supreme Court were not clients and that he would only be representing them once his suspension was lifted by the Supreme Court. He stated that he had felt confident a stay was going to be granted, but it was not.

#### DISPOSITION

Upon hearing the testimony offered by the Respondent and reviewing the exhibits filed in this matter, the Board finds that the Respondent failed to comply with the requirements of ¶13-29 of the Rules in that he failed to notify the “other clients” to whom he referred in his Motion to the Supreme Court and to whom he referred at the show cause hearing. The Board finds that Mr. Kane has not met his burden to show by clear and convincing evidence why his license to practice law should not be further suspended or revoked for failing to comply with the Board’s Summary Order, dated March 28, 2014, in which he was suspended from the practice of law for one year and one day and ordered to comply with the notice requirements of ¶13-29 of the Rules of the Supreme Court of Virginia. Upon such findings and following due deliberation as to the appropriate sanction to be imposed, it is, therefore,

ORDERED that Respondent’s license to practice law within the Commonwealth of Virginia be and hereby is SUSPENDED for an additional term of six months, which suspension is consecutive to his suspension entered on March 28, 2014.

It is further ordered, pursuant to the provisions of Part Six, §IV, ¶13-29 of the Rules of the Supreme Court of Virginia, as amended, that the Respondent shall forthwith give notice by certified mail 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 Attorney shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. The Respondent shall give such notice within 14 days of the effective date of the Suspension, and make such arrangements as are required by the Rules within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective date of the Suspension that 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 August 22, 2014, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System of the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by ¶13-9 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, pursuant to Part 6, §IV, ¶13-9 (E) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent; and

It is further ORDERED that a teste copy of this Order shall be mailed by Certified Mail to the Respondent, John F. Kane, at his last address of record with the Virginia State Bar, 2428 Alameda Avenue, Suite 162, Norfolk, VA 23513, and hand-delivered to Paul D. Georgiadis, Assistant Bar Counsel, 1111 East Main Street, Suite 700, Richmond, VA 23219.

ENTERED THIS 5<sup>th</sup> DAY OF SEPTEMBER, 2014.

VIRGINIA STATE BAR DISCIPLINARY BOARD

BY   
Tyler E. Williams, III, Chair