VIRGINIA:

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

IN THE MATTER OF WILLIAM MAGRUDER MCKEE
VSB DOCKET NO. 14-000-098116

ORDER OF SUSPENSION

This matter came to be heard on February 21, 2014 before a duly convened panel of the Virginia State Bar Disciplinary Board on a certified Amended Notice of Show Cause Hearing for Failure to Comply with Paragraph 13-29, dated January 10, 2014, enclosing the Amended Rule to Show Cause Order, dated January 10, 2014, with the Petition for a Rule to Show Cause for Violation of Board Order entered in VSB Docket No. 12-000-090527. The panel consisted of Whitney G. Saunders, Chair; William H. Atwill, Jr.; Tony H. Pham; Lisa A. Wilson; and Anderson W. Douthat, IV, lay member. The Virginia State Bar was represented by Paul D. Georgiadis, Assistant Bar Counsel. The Respondent, William Magruder McKee, appeared in person, together with his appointed Guardian *ad litem*, Elliott P. Park. Respondent did not have counsel. Terry S. Griffith, court reporter, Chandler and Halasz, Inc., P.O. Box 9439, Richmond, Virginia 23227, (804) 730-1222, after having been duly sworn, reported the hearing and transcribed the proceeding. The Chair polled members of the Panel regarding any personal or financial interest they might have which would preclude them from fairly hearing the matter before them. Each member, including the Chair, responded in the negative.

The Bar called Respondent, who after being sworn, testified as an adverse witness. Bar Exhibits 1 through 4 were admitted without objection.

FINDINGS OF FACT

The Board found the following facts:

On August 24, 2012, Respondent consented to an indefinite suspension of his license to practice law by reason of physical impairment (the "Consent Order"). Six misconduct complaints were then pending against Respondent arising from allegations of neglect or failure to communicate. Respondent's appointed Guardian *ad litem* also endorsed the Consent Order. The suspension became effective September 7, 2012. The Consent Order required Respondent to comply with Part Six, Section IV, Paragraph 13-29 of the Rules of the Court. In that regard, Respondent was required to (1) give written notice of his suspension to all clients, opposing counsel and presiding judges in pending litigation within fourteen days of the effective date of the suspension; (2) make appropriate arrangements for the disposition of the matters then in his care in conformity with his clients' wishes within forty-five days of the effective date of the suspension; and (3) furnish proof to the Bar that he timely notified his clients, opposing counsel, and presiding judges in writing and that he timely made appropriate arrangements for the disposition of his cases within sixty days of the effective date of the suspension.

In addition to having actual notice of the Consent Order and its Paragraph 13-29 requirements by reason of his personal appearance before the Board and his endorsement of the Consent Order, the Clerk of the Virginia State Bar Disciplinary System sent the Consent Order to Respondent by certified letter to his address of record by letter dated August 24, 2012.

In the Clerk's transmittal letter, the Clerk demanded that Respondent file with the Clerk proof of his compliance with Paragraph 13-29 on or before October 23, 2012.

Receiving no response to the Clerk's letter and demand of August 24, 2012, the Clerk sent a reminder to Respondent by letter dated February 19, 2013.

At no time has Respondent filed proof of compliance with the Consent Order directing compliance with Paragraph 13-29.

Respondent testified that he had six active clients as of the effective date of the suspension; that he provided oral notification of his suspension to five of those active clients; that he appeared before two of the six tribunals in which he had pending cases and advised the Court of his suspension; and that he entered Orders of Substitution of counsel with four of the six active matters albeit without any recitation of his suspension. There was no evidence of actual harm to any of the six clients.

Upon conclusion of the Bar's evidence, Respondent and his Guardian *ad litem* conceded that Respondent had failed to comply with his obligations to provide the notice required under Paragraph 13-29 or to file proof of his compliance with the Bar as required.

DISPOSITION

The Board takes compliance with Part Six, Section IV, Paragraph 13-29 seriously. Without compliance, the Bar is unable to ascertain whether the attorney whose license has been suspended or revoked has taken the necessary steps to protect his or her clients, such protection being of paramount importance. Moreover, the proper administration of justice requires the appropriate tribunals be apprised of what has occurred. For these reasons even a

violation such as the one at hand, where it appears no actual harm befell anyone, cannot be ignored.

Upon hearing the testimony offered in this matter and reviewing the Exhibits entered herein, the Board finds that Respondent failed to comply with the requirements of Paragraph 13-29 as imposed upon him in the Consent Order and that he failed to certify to the Bar his compliance within the sixty day period provided to him to do so. Accordingly, the Board finds that Respondent 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 Consent Order and Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Upon such findings and following due deliberation of both the facts of the case at hand and evidence presented 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 shall take effect on February 21, 2014; and it is further

ORDERED, based on Respondent's testimony that he no longer has clients to whom notice would otherwise need to be given and is in no manner involved in any matters before any tribunal, that the notice requirements of Part Six, Section IV, Paragraph 13-29 be and hereby are dispensed with; and it is further

ORDERED that, pursuant to Part 6, Section IV, Paragraph 13-9 (E) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against Respondent; and it is further

ORDERED that attested copy of this Order be: mailed by certified mail to Respondent, William Magruder McKee, at his Virginia State Bar address of record, 3609 Bayside Avenue, Norfolk, Virginia 23518; mailed by regular mail to Elliott P. Park, Respondent's Guardian *ad litem*, at Park and Company, P.C., Suite 300, 1011 East Main Street, Richmond, Virginia 23219; and hand-delivered to Paul D. Georgiadis, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800.

ENTERED: April 1, 2014

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Whitney G. Saunders
Whitney G. Saunders, Second Vice Chair