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VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

JUL 29 2009

VIRGINIA STATE BAR EX REL )  
SEVENTH DISTRICT COMMITTEE )

Complainant, )

v. )

JONATHAN ALDEN MOSELEY )

Respondent. )

Case No. CL52390

VSB Docket No. 05-070-1200

THREE-JUDGE PANEL

VSB CLERK'S OFFICE

MEMORANDUM OPINION AND ORDER

**THIS MATTER** came before the Three Judge Panel consisting of the Honorable Marcus D. Williams, Chief Judge Designate, the Honorable Thomas A. Fortkort, Retired, and the Honorable John E. Kloch, Retired, presiding on March 16-18, 2009 for purposes of determining whether Respondent engaged in Misconduct. The Respondent, Jonathan A. Moseley appeared in person pursuant to a duly noticed Rule to Show Cause dated November 14, 2008 appointing the time and place for the hearing. Respondent was represented by counsel, Daniel M. Gray, Esquire who noted his appearance. The Virginia State Bar was represented by Assistant Bar Counsel, Paulo E. Franco, Jr.; and it

**FURTHER APPEARING** that the Court swore in the Court Reporter and the parties presented opening statements and the Bar put on its case in chief and then rested. The Court then heard oral argument on the Respondent's Motion to Strike and after having considered argument overruled the Motion to Strike; and it

**FURTHER APPEARING** that the Respondent put on his case in chief and then rested; and it

**FURTHER APPEARING** that the Respondent then moved to strike the Bar's case after having rested his case in chief and the Court, after having considered argument, overruled the Motion to Strike; and it

**FURTHER APPEARING** that after having heard closing arguments of counsel the Three Judge Panel retired to deliberate on the Charges of Misconduct and after having duly deliberated on the matter announced its findings in open court on March 18, 2009 and made the following findings of fact and conclusions of law:

1. The charges relating to Virginia Rule of Professional Conduct 1.7 (a)(1), (a)(2), (b)(3) and (b)(4) are dismissed as the Court finds that Respondent had a reasonable belief that he could continue representing Mr. Ammons and that Mr. Ammons had waived any conflict after consultation with other counsel;

2. The charge relating to Rule 3.1 is dismissed as the Court finds no clear and convincing evidence that Mr. Ammons' claim against the Christian Coalition of America, Inc. was totally frivolous;

3. The charge relating to Rule 3.4(a) is dismissed as the Court finds that there was no clear and convincing evidence that Respondent sought to obstruct access to evidence;

4. The charge relating to Rule 3.4(i) is dismissed as the Court finds that there was no clear and convincing evidence that Respondent presented threats of criminal charges solely to obtain advantage in a civil case;

5. The charge relating to Rule 3.7(a) is dismissed, the Court finding no violation of that Rule, and further finding that dismissing Respondent from the Ammons litigation would

have worked an undue hardship on Mr. Ammons and that it was unclear from the evidence that Respondent would have been called as a witness in the case;

6. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.3(a)(1) given the circumstances of the Ammons litigation leading up to the July 15, 2004 hearing, as set forth in the transcripts (VSB Exs. 6-8) and orders (VSB Exs. 4 and 5) that the Bar introduced into evidence, that the Respondent had a duty to disclose to the court in a timely fashion that he and his client had found a copy of the contract that they alleged formed the basis for the claim against the Christian Coalition of America, Inc.

7. The Court further finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.3(a) (1) in that he made a false statement of fact to the American Arbitration Association, as set forth in his letter of November 9, 2005, a part of the Bar's Exhibit No. 17, concerning Judge Alper's Order of November 23, 2004 (VSB Ex. 9);

8. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.4(e) in that the Court concludes that the Respondent filed frivolous discovery requests in the first Ammons case as supported by the transcripts (VSB Exs. 6-8) and orders (VSB Exs. 4 and 5) and as supported by examples of the frivolous discovery requests received into evidence (VSB Exs. 23, 24, 28, 29 and 32);

9. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.4(j) in that the Court concludes that Respondent filed suit, asserted positions and took other action on behalf of his client when it was obvious that such action would serve only to harass or maliciously injure another as supported by the transcripts and orders (VSB Exs. 5, 8, 11 and 14);

10. The Court finds that the Bar has proven by clear and convincing evidence that

Respondent violated Rule 4.1(a), the Court concluding that Respondent did in fact author the email dated March 3, 2006 which the Arlington County Circuit Court received into evidence on March 16, 2006 (VSB Ex. 131). The Court finds that the email (VSB 131) contains knowingly false statements about Judge Alper, and the Court further finds its conclusion that Respondent authored VSB 131 is supported by Respondent's statements and representations in prior proceedings, including but not limited to his statements under oath in a lawsuit he filed in the United States District Court for the Eastern District of Virginia (VSB Ex. 135), documents and testimony received by this Court during the hearing of this case, as well as Respondent's own testimony in this case.

11. The Court further finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 4.1(a) in that he knowingly made a false statement of fact concerning Judge Alper's Order of November 23, 2004 (VSB Ex. 9) to the American Arbitration Association, as set forth in his letter of November 9, 2005, a part of the Bar's Exhibit No. 17;

12. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 8.2 in that he made false statements concerning the qualifications or integrity of Judge Alper as set forth in the email Respondent authored dated March 3, 2006, which the Arlington County Circuit Court received into evidence on March 16, 2006 (VSB Ex. 131). The Court's conclusion that Respondent authored the March 3, 2006 email contained in VSB 131 is supported by Respondent's statements and representations in prior proceedings, including but not limited to his statements filed under oath in a lawsuit he filed in the United States District Court for the Eastern District of Virginia (VSB Ex. 135), documents and testimony received by this Court during the hearing of this case, as well as Respondent's own testimony in this case.

13. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rules 8.4(a), (b) and (c) based upon the Court's review of the transcripts and orders (VSB Exs. 3-9, 11 and 14), the testimony and other exhibits received into evidence at the trial of this hearing, and the Court further concludes that the totality of the foregoing Rule violations in paragraphs 1-12 herein constitute violations of Rules 8.4(a), (b) and (c); and it

**FURTHER APPEARING** that the Respondent, having previously been found in violation of the Rules of Professional Conduct, the parties were ordered to and did appear before the Three Judge Panel on June 1, 2009 for the purposes of determining an appropriate sanction; and it

**FURTHER APPEARING** that the Respondent did appear in person and that the Bar was represented by Paulo E. Franco, Jr., Assistant Bar Counsel; and it

**FURTHER APPEARING** that the Court swore in the Court Reporter, granted Respondent's leave to represent himself *pro se* and to discharge his attorney, Daniel M. Gray; and it

**FURTHER APPEARING** that the Court reviewed Respondent's Motion to Vacate and Petition For Writ of Error Coram Nobis and denied the same in open court and directed the parties to present their evidence, Respondent proceeding first; and it

**FURTHER APPEARING** that at the conclusion of the evidence during the sanctions phase of this proceeding the Respondent and the Bar presented closing arguments, as reflected in the transcripts of the proceedings, and that the Three Judge Panel retired to deliberate; and it

**FURTHER APPEARING** that having deliberated the matter, and making a specific finding that the sanction it was imposing was based strictly on the evidence of Misconduct as set forth in the Three Judge Panel's Interim Order of Misconduct entered on April 20, 2009, and

recognizing that Respondent had no prior disciplinary record, had already been sanctioned in the Arlington County Circuit Court and recognizing the egregiousness of Respondent's Misconduct in the Arlington County Circuit Court, the Three Judge Panel hereby

**ORDERS** that the Respondent's license to practice law in the Commonwealth of Virginia be and the same is hereby **SUSPENDED FOR A PERIOD OF SIX (6) MONTHS** effective June 15, 2009; and it is

**FURTHER ORDERED** that the Respondent shall comply with the requirements of Paragraph 13-29 of Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia ("Rules"); and it is

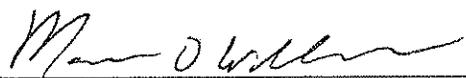
**FURTHER ORDERED** that the Clerk of the Disciplinary System shall comply with all requirements of the Rules, including but not limited to complying with the public notice requirements of Paragraph 13-9.G. of the Rules; and it is

**FURTHER ORDERED** that the Clerk of the Disciplinary System of the Virginia State Bar shall assess all costs against the Respondent pursuant to Paragraph 13-9.E of the Rules.

**FURTHER ORDERED** that the Clerk of the Loudoun County Circuit Court shall mail a copy teste of this Order by certified mail, return receipt requested, to the Respondent, Jonathon Alden Moseley, at his last address of record with the Virginia State Bar, 4386 Harbortown Circle, Southport, NC 28461 and to 4956-14 Long Beach Road SE #311, Southport, NC 28461, the address that Respondent lists on his pleadings.

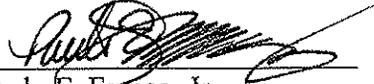
**THIS ORDER IS FINAL.**

ENTERED: 7-28-09

  
\_\_\_\_\_  
Chief Judge Designate for the Three Judge Panel

**SEEN AND OBJECTED TO AS TO SANCTION DETERMINATION** on the grounds that the findings of fact and conclusions of law of the Three Judge Panel warranted no less than Respondent's revocation.

**THE VIRGINIA STATE BAR**

By:   
Paulo E. Franco, Jr.  
Assistant Bar Counsel  
707 East Main Street, 15<sup>th</sup> Floor  
Richmond, Virginia 23219  
(804) 775-9404

**SEEN** \_\_\_\_\_

*Endorsement is waived by the Court pursuant to Va Supreme Ct Rule 1:13*  
*moa*  
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