VIRGINIA:

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

IN THE MATTER OF MARCUS NOAH PERDUE, III
VSB DOCKET NO. 14-000-098235

ORDER OF REVOCATION

This matter came to be heard on April 25, 2014 before a duly convened panel of the Virginia State Bar Disciplinary Board on a certified Notice of Show Cause Hearing for Failure to Comply with Paragraph 13-29, dated January 23, 2014, enclosing the Rule to Show Cause Order, dated January 23, 2014, with the Petition for a Rule to Show Cause for Violation of Board Order entered in VSB Docket Nos. 12-080-089874, 12-080-090906, 12-080-089050. The panel consisted of Whitney G. Saunders, 2nd Vice Chair (Presiding); Samuel R. Walker, R. Lucas Hobbs, Esther J. Windmueller, and Robert W. Carter, lay member. The Virginia State Bar was represented by Paulo E. Franco, Jr., Assistant Bar Counsel. It was determined that Marcus Noah Perdue, III, (Respondent) was given proper notice of the hearing and in fact, knew of it and was not under any disability that would have prevented his appearance. The clerk called the Respondent's name in the hallway three times; there was no response. The Respondent did not appear and did not have counsel. Jennifer Hairfield, 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 or conflict they might have which would preclude them from fairly

hearing the matter before them. Each member, including the Chair, responded in the negative.

After making an opening statement, Bar Counsel entered the following affidavits into evidence, with the following exhibit numbers:

VSB #1 - Affidavit of Barbara Lanier, Clerk of the Disciplinary System of the Virginia State Bar, including prior orders of suspension
VSB #2 - Affidavit of Juan Miller, past client of Respondent
VSB #3 - Affidavit of Maria Richmond, past client of Respondent
VSB #4 - Affidavit of William Jarrett, past client of Respondent
VSB #5 - Affidavit of James Harmon, past client of Respondent
VSB #6 - Affidavit of James Harlow, past client of Respondent

The Bar also called Mary Beth Nash, Virginia State Bar Investigator, as its sole live witness. Nash testified that she interviewed ten people regarding Respondent's activities after his suspension. In sum, some of Respondent's clients found out about his suspension through a newspaper article or on the local television news. Others found out when they went by Respondent's office and saw his assistant packing up the office. In addition to the clients that signed affidavits above, Nash interviewed Michelle Fox, Beatrice Cash, Daphne Tinsley, and Pamela Hogue. Respondent never met with the Bar's investigator despite repeated attempts to contact him. Respondent never returned the fees of any of these clients when he was suspended, nor did he make alternative arrangements for their continued representation.

FINDINGS OF FACT

The Board found the following facts:

On August 23, 2013, after a full day hearing with the Respondent present, the Disciplinary Board suspended Respondent's license for one year for violations of Rules 3.3(a)(1), 4.1(a), 8.2, 8.4(a), (b) and (c). The summary order entered that day

required the Respondent to comply with the notice requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Court. On August 26, 2013, the clerk sent a copy of this Summary Order to Respondent at his last address of record. On September 9, 2013, the clerk sent both the Summary and Memorandum order (dated September 5, 2013) to the Respondent at his last known address.

By rule and order, 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 Summary and Memorandum Orders and their Paragraph 13-29 requirements by reason of his personal appearance before the Board, the Clerk of the Virginia State Bar Disciplinary System sent the Orders to Respondent by certified letter to his address of record by letter dated September 9, 2013. 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 November 8, 2013.

Receiving no response to the Clerk's letter and demand of September 9, 2013, the Clerk sent a reminder to Respondent by letter dated January 9, 2014.

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

Not only did Respondent fail to comply with Paragraph 13-29, his failure has significantly harmed his prior clients. Each lost their fees paid to him, which were never refunded. As some of these fees were for bankruptcy petitions, these clients suffered particular financial hardship when Respondent improperly kept their monies. Clients were forced to hire other counsel who required fees prior to undertaking the representation. At least one client ended up representing himself in a divorce action, which resulted in a spousal support obligation that Respondent promised would not be ordered. This client was also ordered to pay his wife's legal fees, which he cannot do without a refund of the fee taken by Respondent. Respondent has kept thousands and thousands of dollars for cases that were not concluded or effectively transferred to other counsel.

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. Failure to comply in this case is particularly egregious as many, many clients were significantly harmed by Respondent's actions. The Respondent has not made any effort to ameliorate the impact of his suspension on the clients who entrusted their legal matters to him.

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 Summary and Memorandum Orders 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 Summary and Memorandum Orders 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 REVOKED, effective April 25, 2014.

ORDERED that, pursuant to Part Six, 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 an attested copy of this Order be: mailed by certified mail to Respondent, Marcus Noah Perdue, III, at his Virginia State Bar address of record, 416 West Locust Street, Covington, VA 24426; and hand-delivered to

Paulo E. Franco, Jr., Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-3565.

ENTERED: May 28, 2014

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Whitney G. Saunders

Whitney G. Saunders, 2nd Vice Chair

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