

VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF MARK ANTHONY SGARLATA
VSB DOCKET NO. 15-000-100482

OPINION AND ORDER

This matter came to be heard on January 23, 2015 before a duly-convened panel of the Virginia State Bar Disciplinary Board on a certified Rule to Show Cause and Order of Summary Suspension and Hearing, dated September 25, 2014. The panel consisted of William H. Atwill, Jr., 2nd Vice Chair; R. Lucas Hobbs; Michael S. Mulkey; Bretta Marie Zimmer Lewis; and Sandra W. Montgomery, lay member.

The Virginia State Bar was represented by Richard E. Slaney, Assistant Bar Counsel. Respondent Mark Anthony Sgarlata was not present, but was represented by Jonathan Phillips. Mr. Phillips represented that Respondent was unable to attend due to his incarceration, but that he was aware of the proceedings. Brian A. Wayne, court reporter, Chandler and Halasz, Inc., P.O. Box 9349, 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.

The Bar offered exhibits identified as Bar's Exhibits 1-11, each of which was admitted without objection. The Respondent offered exhibits identified as Respondent's Exhibits 1-2, each of which was admitted without objection. No witnesses were called by either the Bar or the Respondent.

Respondent's counsel conceded that Respondent had been convicted of a crime, as that term is defined in Part 6, Section IV, Paragraph 13-1 of the Rules of the Supreme Court of Virginia ("Rules"). Based upon the admitted Exhibits, and this concession, the Board found that the Respondent had been found guilty of a crime, namely two felonies, in 2014.

Part 6, Section IV, Paragraph 13-22(E) of the Rules of the Supreme Court of Virginia ("Rules") requires that this Board, upon finding that an attorney respondent has been found guilty of a crime, shall "continue the Suspension or issue an order of Suspension against the Respondent for a stated period not in excess of five years; or issue an order of Revocation against the Respondent.

The Board also found that in entering his pleas of guilty to the aforementioned crimes, Respondent acknowledged in writing on August 1, 2014, that one possible collateral consequence of his conviction was the "inability to . . . maintain professional licenses." VSB Ex. 1, Plea of Guilty to Felony, Para. 12.

The panel heard argument of counsel, with the Respondent requesting a period of suspension, and the Bar requesting revocation of Respondent's license to practice law in the Commonwealth of Virginia.

Upon the aforementioned findings and following due deliberation of both the argument 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 January 23, 2015; and it is further

ORDERED that the Respondent must comply with the requirements of Part Six, § 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 also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein 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 day 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 January 23, 2015, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 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 Six, Section IV, Paragraph 13-29 (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, return receipt requested, to Respondent, Mark Anthony Sgarlata, at his Virginia State Bar address of record, Watt, Tieder, Hoffar & Fitzgerald, LLP, 8405 Greensboro Drive, Suite 100, McLean, Virginia 22102; and to Jonathan Phillips, Counsel for Respondent,

LefflerPhillips, 10555 Main Street, Suite 600, Fairfax, VA 22030; and hand-delivered to Richard E. Slaney, Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-3565.

ENTERED THIS 23rd DAY OF February 2015

VIRGINIA STATE BAR DISCIPLINARY BOARD

Digitally signed by William H. Atwill, Jr.
DN: cn=William H. Atwill, Jr., o=Atwill, Troxell & Leigh, PC, ou, email=batwill@atandlpc.com, c=US
Date: 2015.02.23 09:17:13 -05'00'

By: William H. Atwill, Jr., 2nd Vice Chair