

VIRGINIA:

MAR 4 2013

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

VIRGINIA STATE BAR, EX REL
FIFTH DISTRICT COMMITTEE

Complainant

v.

Case No. 2012-11215

STEPHEN JOSEPH SHEEHY, III

Respondent

MEMORANDUM ORDER

This cause came to be heard on the 24th day of September 2012, before a Three-Judge Court duly impaneled pursuant to Section 54.1-3935 of the Court of Virginia, 1950, as amended, consisting of the Honorable Alfred D. Swersky, Judge Designate, the Honorable Frederick B. Lowe, Judge Designate, and the Honorable Richard D. Taylor, Jr., Chief Judge Designate. The Virginia State Bar appeared through its Assistant Bar Counsel Prescott L. Prince, and the Respondent appeared in person and through his counsel, Michael L. Rigsby, Esquire.

WHEREUPON, a hearing was held on the Rule to Show Cause issued against the Respondent, Stephen Joseph Sheehy, III which Rule directed him to appear and show cause why his license to practice law in the Commonwealth of Virginia should not be suspended or revoked or why he should not otherwise be sanctioned by reason of the allegations of unethical conduct set forth in the Certification issued by a subcommittee of the Fifth District Committee of the Virginia State Bar.

*1cc to Respondent
1cc to Bar Bar
1cc to Bar of 1cc to Green 1cc to 3
1cc to Assistant Bar
1cc to Michael*

Following opening statements by the parties, the Bar presented its evidence. The panel then heard evidence on behalf of the Respondent, and the argument of the parties as to whether Respondent violated the Rules of Professional Conduct set forth in the Certification.

After due deliberation, the panel unanimously found by clear and convincing evidence the following facts:

1. At all times relevant to the conduct set forth herein, Stephen Joseph Sheehy, III, ("Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent was court-appointed counsel for a defendant in criminal cases pending in the Fairfax County, Virginia, judicial system.
3. On June 3, 2009, the Respondent appeared in the Fairfax County Circuit Court for entry of guilty pleas by his client to felony charges of attempted robbery and malicious burning.
4. At the conclusion of a colloquy between the Court and the Respondent's client, a proffer of evidence made by the prosecutor, and a discussion of when the Court would schedule a sentencing date, the Respondent's client complained to the judge that the Respondent had not ever been to see him while incarcerated, and had only spoken to him one time on the telephone, despite his many calls to the Respondent.
5. The Judge asked the Respondent when the Respondent last met with his client at the jail, to which question the Respondent replied "About two weeks ago, Your Honor." The Respondent's client thereupon informed the judge in open court, "That's a lie, Your Honor. He's never come to see me."

6. The Court inquired further of the Respondent, who reiterated that he had met with his client two weeks prior to the hearing. In response to further questions by the Court, the Respondent informed the Court that he talked to the client at such meeting about “[w]hat was going on with his case.”

7. When the judge asked how many times the Respondent had met with his client in the jail before the meeting the Respondent claimed to have had two weeks prior to the hearing, the Respondent stated “Probably only two, Your Honor.”

8. At a bench conference subsequent to these exchanges, the Court gave the Respondent an opportunity to correct his statements made to the Court moments before the bench conference. The Respondent did not then and there acknowledge that his statements to the Court were false, despite his knowledge of their falsity.

9. At the conclusion of the June 3, 2009, court appearance, the Respondent was removed from the client’s cases, and the matters were referred by the Court to the Fairfax County Office of the Public Defender.

10. The Respondent acknowledged, in open court before the Three-Judge Panel that his statement to the Judge was not true and that, in fact, he had not met with his client in the two weeks prior to the hearing, that he had met with the client at the jail only one time and that said meeting was approximately three months before the Court date.

The panel unanimously found that such conduct by Respondent violated the following provisions of the Virginia Rules of Professional Conduct:

RULE 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal[.]

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyers fitness to practice law[.]

All remaining charges were dismissed by the Court.

THEREAFTER, the Respondent presented evidence and the parties offered argument regarding the sanction to be imposed. After due deliberation, the panel unanimously decided to impose upon the Respondent a Public Reprimand, effective immediately, and the court entered a Summary Order to that effect.

That the Respondent, Stephen Joseph Sheehy, III be and hereby is PUBLICLY REPRIMANDED by this Court.

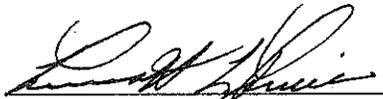
Pursuant to Paragraph 13-9(E) of the Rules, the Clerk of the Disciplinary System shall assess costs. It is further ORDERED that the Clerk of this Circuit court shall send a copy *teste* of this Order to the Respondent by Certified Mail, Return Receipt Requested, at Suite 43-C, 3911 Old Lee Highway, Fairfax, Virginia 22030, the Respondent's last address of record with the Virginia State Bar, and send copies *teste*, by first class mail to Assistant Bar Counsel, Prescott L. Prince, Esquire, at 707 East Main Street, Suite 1500, Richmond, VA 23219, to Respondent's counsel, Michael L. Rigsby, Esquire, at P.O. Box 29328, Henrico, Virginia 23242 and to Barbara Sayers Lanier, clerk of the Disciplinary System, Virginia State Bar at 707 East Main Street, Suite 1500, Richmond, VA 23219.

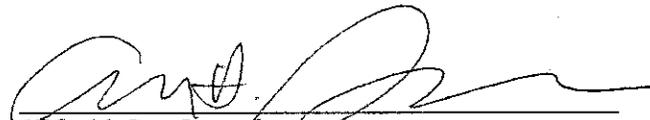
These proceedings were recorded by Pat Bloom, Verbatim Reporter, Rudiger, Green & Kerns Reporting Service, 4116 Leonard Drive, Fairfax, VA 22030, telephone number (703) 591-3136.

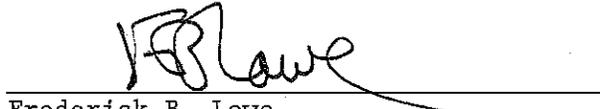
ENTERED this 11th day of July, 2013

Richard D. Taylor, Jr.
Chief Judge Designate

I ask for this:


Prescott L. Prince
Assistant Bar Counsel


Alfred D. Swersky
Judge


Frederick B. Lowe
Judge

Seen:


Michael L. Rigsby
Counsel for Respondent

A COPY TESTE:
JOHN T. FREY, CLERK
BY: Krishnavani Tammisetti
Deputy Clerk
Date: 2-25-2013
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia