

VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
HARTE PEARY STAFFORD

VSB Docket No.: 10-053-083368

**ORDER OF REVOCATION**

This matter came to be heard on Friday, August 24, 2012, before a duly convened panel of the Virginia State Bar Disciplinary Board pursuant to notice in House Room C of the Virginia General Assembly building in Richmond, Virginia. Tyler E. Williams, III, served as Chair of the panel and Ester J. Windmueller, William C. Boyce, Jr., Whitney G. Saunders and Reverend W. Ray Inscoc, Laymember, comprised the remaining members of the panel.

The Virginia State Bar (the "Bar") was represented by Seth M. Guggenheim, Senior Assistant Bar Counsel. Harte Peary Stafford (the "Respondent"), did not appear nor was he represented by Counsel. Teresa L. McLean, Court Reporter of Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, 804-730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

All legal notices of the date and place of the hearing were timely sent by the Clerk of the Disciplinary System in the manner prescribed by law.

The case was called by the Chair in the hearing room and by the Clerk in the hallway, outside of the hearing room, three times and the Respondent neither responded nor appeared. The Chair opened the hearing by polling the members of the panel to ascertain if any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in the matters before the panel. Each member, including the Chair, verified that he or she had no such interest.

The matter came before the Disciplinary Board pursuant to a subcommittee determination ("Certification") of the Fifth District Section Three subcommittee of the Virginia State Bar, upon

Notice of Hearing provided to the Respondent at his last address registered with the Virginia State Bar and upon a Prehearing Order provided to Respondent at his last address registered with the Virginia State Bar.

In accordance with rulings made at the pretrial conference in this matter, which Respondent did not attend, the Bar's Exhibits 1, 2, 3, 4 and 5 were admitted into evidence. The Bar also offered, as Exhibit 6, an e-mail transmission sent to the Respondent giving notice of this hearing before the Virginia State Bar Disciplinary Board which the Bar Counsel did not "bounce back" to the sender as undeliverable. Exhibit 6 was also admitted into evidence.

The Chair explained the process to be followed in the hearing and inquired whether Counsel for the Bar had any questions with regard to procedure. There being none, the Chair requested that all witnesses to be heard in this matter be sworn and after having done so the Bar made an opening statement.

The Bar called investigator Ronald H. McCall as its first witness. Mr. McCall testified that he interviewed Mr. Stafford, who admitted receipt of the Notice of Hearing and stated that he had failed to respond to the complaint filed against him. Upon direct examination, Mr. McCall stated that the Respondent did represent Kuldeep Gupta, who retained him in order to obtain an alien worker permit and to file an I-140 petition to obtain permanent status. The Respondent was paid a total of \$21,500.00 for his representation of the Complainant. The Respondent, initially denied receipt of the entire fee of \$21,500.00 but did state that the portion he did receive was placed in his firm operating account since he did not have, nor has he ever had a trust account. Subsequently the Respondent admitted receipt in full of \$21,500.00 for his representation of the Complainant. Respondent did submit an I-140 petition and an I-485 application for the Complainant, however he failed to provide all of the requested information for the I-140 petition and failed to inform the United States Citizenship and Immigration Services (USCIS) of a change in his address which resulted in the Respondent's failure to receive a Notice of Denial of the I-140 petition. The Respondent failed to communicate the denial of the I-140 petition to the Complainant and consequently no appeal was filed on Complainant's behalf. Mr. McCall further

testified that as a result of the I-140 petition being denied, the Complainant's I-485 application was also denied and the Complainant is now the subject of removal proceedings by USCIS.

The Bar called the Complainant, Kuldeep Gupta. Mr. Gupta having been sworn, testified that he had paid the Respondent \$21,500.00 for representation to obtain alien worker permanent status. Mr. Gupta did not receive notice that his I-140 petition had been denied and became aware of the denial upon notice of denial of his I-485 application. Upon receipt of denial of his I-485 application, he was initially unable to locate the Complainant in order to determine the status of his case and has engaged two other attorneys to whom he has paid a total of \$30,000.00, to handle his case before USCIS.

The Bar rested and closing argument was presented on behalf of the Bar. The Board retired for deliberation and upon its return the Chair reported a unanimous opinion that the Respondent has by clear and convincing evidence been found in violation of the following Rules of Professional Conduct: 1.1, 1.3(a), 1.4(a), 1.4(b), 1.4(c), 1.5(a)(4), 1.15(a), 1.15(c)(3), 1.15(c)(4), 1.15(e)(1)(i), 1.15(e)(1)(ii), 1.15(e)(1)(iii), 1.15(e)(1)(iv), 1.15(e)(v), 1.15(e)(2)(i), 1.15(e)(2)(ii), 1.15(e)(2)(iii), 1.15(f)(1)(i), 1.15(f)(2), 1.15(f)(4)(i), 1.15(f)(4)(ii), 1.15(f)(5)(i), 1.15(f)(5)(ii), 1.15(f)(5)(iii), 1.15(f)(6), 1.16(d) and 8.1(c). The Chair further stated that the following rules were not found to have been violated by clear and convincing evidence: 1.5(a)(1), 1.5(a)(2), 1.5(a)(3), 1.5(a)(5), 1.5(a)(6), 1.5(a)(7), 1.5(a)(8).

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar, including the absence of a prior disciplinary record. The Bar argued that the failure to maintain a trust account, the severity of the consequences for the Complainant and the insouciance of the Respondent required revocation of the Respondent's license to practice law in the Commonwealth. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by Respondent. After due deliberation, the Board reconvened to announce the sanction imposed. The Chair announced the sanction to be Revocation.

Accordingly it is Ordered that the license of Harte Peary Stafford to practice law in Virginia should be, and is hereby, revoked effective August 24, 2012, the Board having reviewed

the entire record in determining the appropriateness of this sanction and having cited rules 4.11, 4.41(a), 4.41(c) and 4.51 of the American Bar Association Standards For Imposing Lawyer Sanctions.

It is further ORDERED that, 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 revocation 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. Respondent shall also make appropriate arrangements for the disposition of matters then in his care and conformity with the wishes of his clients. Respondent shall give such notice within fourteen days of the effective date of this revocation, and make such arrangements as are required herein within forty-five days from the effective date of this revocation. The Respondent shall also furnish proof to the Bar within sixty days of the effective date of this revocation that such notices have been timely given and such arrangements made for the disposition of all client matters.

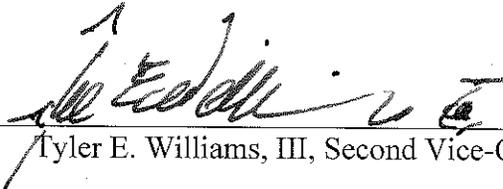
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of this order, Respondent shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangement required by ¶13 shall be determined by the State Bar Disciplinary Board, unless the Respondent makes a timely request before a three judge court.

It is further ORDERED that pursuant to Part Six, §IV, ¶13-9e of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to Harte Peary Stafford at his address of record with the Virginia State Bar, being 7700 Little River Turnpike, Suite 601, Annandale, VA 22003, by certified mail, and to Seth M. Guggenheim, Senior Assistant Bar Counsel, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 19th day of September, 2012.

VIRGINIA STATE BAR DISCIPLINARY BOARD

by  \_\_\_\_\_  
Tyler E. Williams, III, Second Vice-Chair