VIRGINIA: BEFORE THE STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
MICHAEL B. STONE **VSB DOCKET NO. 14-000-097780**

MEMORANDUM ORDER

This matter came on to be heard on January 24, 2014 by the Disciplinary Board of the Virginia State Bar (the Board) upon a Rule to Show Cause and Order of Summary Suspension and Hearing entered January 3, 2014 pursuant to Part Six, Section IV, Paragraph 13-24(A) of the Rules of the Supreme Court of Virginia. A duly convened panel of the Board consisting of Whitney G..Saunders, Chair, Rev. W. Ray Inscoe, Lay Member, J. Casey Forrester, R. Lucas Hobbs, and Lisa A. Wilson (the Panel) heard the matter. Kara L. McGehee, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar (VSB). The Respondent, Michael B. Stone (Respondent), appeared *pro se,* by telephone. The court reporter for the proceeding, Angela N. Sidener, Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227, telephone 804-730-1222, was sworn by the Chair. The Chair polled the members of the Panel to determine whether 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 these matters. Each member, including the Chair, verified he or she had no such interests.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (Clerk) in the manner prescribed by the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13 of the Rules of Court. The case was called by the Clerk and the Respondent, who had filed a timely written response to the Rule to Show Cause, appeared *pro* se,

by telephone. The Board entertained opening statements from the VSB and Respondent and received evidence. The VSB introduced (1) a copy of a certified order of the Supreme Court of the State of California (S211464) suspending Respondent's license to practice law in the State of California for a period of two years, with all but ninety days of the suspension deferred effective September 21, 2013, (2) a copy of the Stipulation Re Facts, Conclusions of Law and Disposition signed by Respondent and Deputy Trial Counsel for the California State Bar on March 22, 2013 stipulating that Respondent failed to comply with the conditions of two prior disciplinary actions in violation of the Rules of Professional Conduct, Rule 1-110, (3) a certified copy of the Actual Suspension Order from the California State Bar Court dated April 1, 2013, and (4) an Affidavit from the Custodian of Membership Records for the Virginia State Bar certifying that as of the date of this hearing Respondent was an active member of the Virginia State Bar not in good standing. Respondent presented no evidence.

After due deliberations the Board finds that Respondent failed to establish by clear and convincing evidence any of the grounds of defense found in Part 6, Section IV, Paragraph 13-24(B) of the Rules of Court that (1) the record of the proceedings in the State of California clearly shows that such proceeding was so lacking in notice or opportunity to be heard as to constitute a denial of due process; (2) the imposition by the Board of the same discipline upon the same proof would result in a grave injustice; or (3) the same conduct would not be grounds for disciplinary action or for the same discipline in Virginia.

With respect to Respondent's argument that he is not subject to the authority of this Board due to the forfeiture of his license to practice in Virginia due to nonpayment of membership dues to the Bar in accordance with Virginia Code §54.1-3914, the Board finds that

such forfeiture – which can be easily remedied by payment of Bar dues plus a one-hundred dollar ($100) penalty – is sufficiently akin to an administrative suspension. The Board has jurisdiction to impose discipline on attorneys who are under administrative suspension.

Having made these findings, the Disciplinary Board **ORDERS** that pursuant to Part 6, Section IV, Paragraph 13-24(G) of the Rules of Court, the same discipline that was imposed in California be imposed in Virginia and Respondent's license to practice law in Virginia is suspended for a period of two (2) years effective January 6, 2014 which is the effective date of the Order of Summary Suspension in the Board's Rule to Show Cause. In accordance with the terms and conditions contained in the order of the Supreme Court of California, Respondent's period of suspension may be lifted upon his satisfaction of the following conditions:

1. Respondent makes restitution to Carney Tews Garcia in the amount of $2,751.50 plus 10 percent interest per year from January 12, 2011 (or reimburses the California Client Security Fund, to the extent of any payment from the fund to the payee, in accordance with Business and Professions Code section 6140.5);
2. Respondent makes restitution to Orange County in the amount of $900 plus 10 percent interest per year from December 19, 2008 (or reimburses the California Client Security Fund, to the extent of any payment from the fund to the payee, in accordance with Business and Professions Code section 6140.5);
3. Respondent satisfies all of the requirements for reinstatement of his license to practice law in State of California as outlined in the order of the Supreme Court of California;

It is further **ORDERED** that Respondent must comply with the requirements of Part 6, Section IV, Paragraph 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 which he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall give notice within fourteen (14) days of the effective date of this Order and make such arrangements as are required within forty-five (45) days of the effective date of this Order. The Respondent shall also furnish proof to the VSB within sixty (60) days that such notices have been timely given and such arrangements made for the disposition of such matters.

It is further **ORDERED** that if Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk. All issues concerning the adequacy of the notice and arrangements required by Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia shall be determined by the Board.

It is **ORDERED** that in accordance with Part 6, Section IV, Paragraph 13-9(E) of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against Respondent.

It is further **ORDERED** that the Clerk shall mail an attested copy of this Order to Respondent, Michael B. Stone, by certified mail at his address of record with the Virginia State Bar, at 848 N. Rainbow Blvd, #1799, Las Vegas, NV 89107, and by hand-delivery to Kara L. McGehee, Assistant Bar Counsel, Virginia State Bar, Eighth and Main Building, 707 East Main Street, Richmond, VA 23219.

ENTERED THE 10 DAY OF February, 2014

VIRGINIA STATE BAR DISCIPLINARY BOARD

Whitney G. Saunders
Second Vice Chair