

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF

MICHAEL RAYMOND THAMES

VS B Docket No.: 12-000-091343

ORDER AND OPINION

This matter came before the Virginia State Bar Disciplinary Board (“Board”) for hearing on Friday, August 24, 2012 at 9:00 AM in Courtroom A at the Virginia Workers’ Compensation Commission, 1300 East Main Street, Richmond, Virginia upon a Notice to Show Cause Hearing why the alternative sanction of a suspension of one year and one day, provided by Order of the Board entered December 15, 2010, should not be imposed by reason of Respondent Michael Raymond Thames’ (“Respondent”) failure to fulfill the terms imposed by the Board.

A duly convened panel of the Board consisting of R. Lucas Hobbs, Melissa Robinson, William H. Atwill, Jody D. Katz, lay member, and Pleasant S. Brodnax, III, First Vice Chair presiding, heard the matter. The Chair polled the members of the Board as to whether any of them had any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, and each member responded that there were no such conflicts. Renu M. Brennan, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (“VSB”). The Respondent did not appear. The clerk called Respondent’s name three times in the foyer outside the courtroom and the Respondent did not answer. The court reporter for the proceeding, Jennifer L. Hairfield, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone 804-730-1222, was duly sworn by the Chair.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by law. Part Six, §IV, ¶13-18(O) of the Rules of the Supreme Court, *Enforcement of Terms*, provides, in relevant part, that whenever it appears that the

Respondent has not complied with the Terms imposed in a prior disposition, Bar Counsel shall serve notice requiring the Respondent to appear and show cause why the alternate disposition should not be imposed. Such a show cause proceeding shall be set for hearing before the Board at its next available hearing date. The burden of proof shall be on the Respondent to show compliance by clear and convincing evidence. If the Respondent has failed to comply with the Terms of the prior disposition, the alternate disposition shall be imposed.

Procedural Background

By order of this Board entered on December 10, 2012 in VSB Docket No. 09-041-079745 (the "Prior Order"), the Respondent was found by clear and convincing evidence to have engaged in misconduct, specifically violating Rules of Professional Conduct 1.3 (Diligence) and 8.1 (Bar Admission and Disciplinary Matters). The Prior Order issued a Public Reprimand, with the following Terms: (1) The Respondent shall complete twelve (12) hours of continuing legal education in ethics within six (6) months from December 10, 2010, which CLE hours shall not count towards his MCLE requirements, and shall provide written certification of compliance with this CLE requirement within ten (10) days of the earlier of his full compliance or the end of the six (6) month period, and (2) within thirty (30) calendar days from December 10, 2010, the Respondent shall meet and submit to an interview with Bar Counsel as to the nature and extent of his law practice, and to explain his conduct in failing to comply with these proceedings. The Prior Order further provided that, in the event Respondent failed to comply with either Term, Respondent's license to practice law in the Commonwealth of Virginia shall be suspended for a period of one year and one day pursuant to Part Six, Section IV, ¶13-18(O).

Findings of Fact

Bar Counsel made an opening statement and offered VSB Exhibits 1 through 3, which were admitted. Witness David Fennessry, an investigator for the Virginia State Bar, testified. Bar Counsel made a closing argument. The Board finds the following:

1. Respondent failed to comply with either Term of the Prior Order. Specifically, he did not provide written certification by June 20, 2011 that he had completed twelve (12) hours of Continuing Legal Education in Ethics, in addition to his MCLE requirements, by June 10, 2011, nor did he complete such Continuing Legal Education. Specifically, he did not meet with or contact Assistant Bar Counsel, Kathleen Maureen Uston, on or before January 10, 2011 to discuss Respondent's law practice and Respondent's failure to cooperate with the Bar's investigation in the underlying matter.

At the conclusion of the evidence regarding the Show Cause, the Board recessed to deliberate. After deliberation, the Board reconvened and stated that it found that the Respondent did not prove by clear and convincing evidence compliance with the Prior Order and that the alternative disposition in the Prior Order, suspension for one year and one day be imposed effective August 24, 2012. Accordingly, it is

ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is SUSPENDED for one year and one day, effective August 24, 2012. It is further

ORDERED that the Respondent must comply with the requirements of Part 6, Section 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 presently in his care in conformity with the wishes of his clients. The Respondent shall give such notice within fourteen (14) days of the

effective date of the Suspension, and make such arrangements as are required within forty-five (45) days of the effective date of the Suspension. The Respondent shall also furnish proof to the VSB within sixty (60) days of the effective date of the Suspension that such notices have been timely given and such arrangements made for the disposition of matters. It is further

ORDERED that all issues concerning the adequacy of the notice and arrangements required by ¶13-29 shall be determined by the Board. It is further

ORDERED that because the Respondent's license has been suspended for more than one year, the Respondent's license shall not be reinstated unless and until the Respondent complies with the provisions of Part Six, §IV, ¶13-18 of the Rules of the Supreme Court. It is further

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

ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Order to the Respondent Michael Raymond Thames at his address of record with the Virginia State Bar, being 1320 North Veitch Street, Apt. 835, Arlington, Virginia 22201 by certified mail and by regular mail to Renu M. Brennan, Assistant Bar Counsel, 707 E. Main Street, Suite 1500, Richmond, Virginia 23219.

SO ORDERED, this 10th day of October 2012

VIRGINIA STATE BAR DISCIPLINARY BOARD

By PSB
Pleasant S. Brodnax, III,
First Vice Chair