

VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD
IN THE MATTER OF

BRADLEY DOUGLAS WEIN

VS B Docket No. 11-000-088058

MEMORANDUM ORDER OF REVOCATION

This matter came on to be heard on June 24, 2011, before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Thomas R. Scott, Jr., Chair, Paul M. Black, Raighne C. Delaney, Werner H. Quasebarth, Lay Member, and Tyler E. Williams, III. The Virginia State Bar was represented by Renu M. Brennan, Assistant Bar Counsel. The Respondent, Bradley Douglas Wein, failed to appear in person or by counsel. Tracy J. Stroh, RPR, court reporter, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227 (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

The Chair opened the hearing by calling the case both in the hearing room and in the adjacent hall. The Respondent did not answer or appear. The Chair then polled the members of the Board panel to ascertain whether any member was conscious of any personal or financial interest or bias which would preclude him from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative.

All required notices were sent by the Clerk of the Disciplinary System to the Respondent by Certified Mail at 3900 Westerre Parkway, Suite 300, Richmond, Virginia 23233, Respondent's address of record with the Virginia State Bar. Additionally, notices were sent by the Clerk of the Disciplinary System to the Respondent by regular mail at 4205 Mountain Grove Road, Glen Allen, Virginia 23060 and 15401 South 31st Place, Phoenix, Virginia 85048, additional addresses of the Respondent known to the Clerk.

Procedural History

The matter came on the Notice of Noncompliance and Request for Rule to Show Cause Pursuant to Paragraph 13-29, filed herein by the Virginia State Bar (the "Bar").

More particularly, the Bar in its Notice of Noncompliance alleged as follows:

1. By summary order entered on September 24, 2010, in VSB Docket Numbers 07-032-0903, 08-032-073809, and 07-032-1855, the Board suspended Respondent's license to practice law for four years (VSB Docket No. 07-032-1855) and six months (VSB Docket No. 07-032-0903), respectively. The suspensions were to run concurrently. The Board dismissed VSB Docket No. 08-032-073809. The Summary Order stated as follows:

"The Board notes that concerning Paragraph 13-29 that: Respondent shall comply with all requirements of Paragraph 13-29 of the Rules, including but not limited to sending the required notices, making the required arrangements, and providing the required proof to the Bar." See Paragraph 6 of the Summary Order, included as part of Exhibit A, Affidavit of Barbara Sayers Lanier, the Clerk of the Disciplinary System (Clerk's Affidavit). The Summary Order is attached as pp. 59 and 60 of the Clerk's Affidavit, Exhibit A.

2. By letter dated September 27, 2010, Vivian R. Byrd, the Deputy Clerk of the Disciplinary System, forwarded the Summary Order via certified mail to Respondent's address of record with the bar, and to counsel who represented Respondent at the September 23, and 24, 2010, hearings, Christopher J. Collins. In pertinent part, the Clerk's September 27, 2010, letter to Respondent further reminded Respondent of his duties under Paragraph 13-29, as follows:

"Please note your duty under the Rules of Court, Part Six, §IV, ¶13-29, which states as follows:

Duties of Disbarred or Suspended Respondent: After a Suspension against a Respondent is imposed by either a Summary or Memorandum Order and no stay of the Suspension has been granted by this Court ... that Respondent shall forthwith give notice, by certified mail, of his ... Suspension to all clients for whom he ... is currently handling matters and to all opposing Attorneys and the 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. The 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 date of the ... Suspension that such notices have been timely given and such arrangements made for the disposition of matters. The Board shall decide all issues concerning the adequacy of the notice and arrangements required herein, and the Board may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.”

See Exh. A, Clerk’s Affidavit, paragraph 4, pp. 61-68, and Exh. B, Affidavit of Diana L. Balch, Director of Membership regarding Respondent’s address of record.

3. As stated, the Clerk’s September 27, 2010, letter directed Respondent to provide the Clerk with proof of his compliance on or before November 26, 2010, and the Clerk enclosed forms acceptable to the Board in order to be in compliance with the Rules of Court, Part Six, Section IV, Paragraph 13-29, See Exh. A, Clerk’s Affidavit, pp. 61-68.
4. On or about September 30, 2010, the Supreme Court of Virginia received Respondent’s Motion to Stay Suspension Pending Appeal. By response filed October 1, 2010, the Bar opposed Respondent’s Motion for Stay of Suspension. By order entered October 5, 2010, the Supreme Court of Virginia denied Respondent’s motion for stay of the suspension of his law license. A true and correct copy of the October 5, 2010, Order of the Supreme Court of Virginia is attached hereto as Exhibit C.
5. On October 23, 2010, Respondent served a Notice of Appeal of the September 24, 2010, Summary Order on the bar.
6. By letter dated November 30, 2010, the Clerk advised Respondent that the Clerk’s Office had not received proof of his compliance with Paragraph 13-29. Respondent had until November 26, 2010, to comply with Paragraph 13-29. The Clerk’s November 30, 2010, letter further reminded Respondent that if he failed to comply with Paragraph 13-29, a show cause proceeding could lie pursuant to which Respondent’s license could be suspended or revoked. The letter was returned as not deliverable, no longer at this address. See Exh. A, Clerk’s Affidavit, paragraph 5 and p. 77.
7. On December 8, 2010, the Board entered the Memorandum Order suspending Respondent’s license to practice law in the Commonwealth of Virginia for six months in VSB Docket No. 07-032-0903 and for four years in Docket No. 07-032-1855. The suspensions were effective September 24, 2010, and were to run concurrently. By the Memorandum Order, VSB Docket No. 08-032-073809 was dismissed.

In the Memorandum Order, the Board again directed Respondent to 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 was currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent was directed to give the notice within 14 days of the effective date of the Order (September 24, 2010); to make arrangements for the disposition of matters in his care in conformity with his client's wishes within 45 days of September 24, 2010; and to furnish proof of compliance to the Clerk's Office within 60 days of September 24, 2010, or by November 26, 2010. The Board directed Respondent to submit an affidavit to the Clerk if he was not handling any client matters on September 24, 2010. The Clerk forwarded the Memorandum Order to Respondent on December 9, 2010. This letter was also returned by the postal service. See Exh. A, Clerk's Affidavit, paragraph 6, pp. 100-122.

8. On February 1, 2011, the Clerk's Office sent the September 27, 2010, October 26, 2010, November 30, 2010, and December 20, 2010, correspondence to Respondent via regular mail. See Exh. A, Clerk's Affidavit, paragraph 8, p. 195.
9. By Order entered March 16, 2011, the Supreme Court of Virginia dismissed Respondent's appeal. A true and correct copy of the March 16, 2011, Order of the Supreme Court of Virginia is attached hereto as Exhibit D.
10. Respondent failed to furnish proof of compliance with Paragraph 13-29 to the Clerk's Office. See Exh. A, Clerk's Affidavit, paragraph 9.

Evidence Presented to the Board.

In addition to the Exhibits set forth in Bar Counsel's Notice of Noncompliance and admitted into evidence, Bar Counsel called Carrie Smith who testified that Respondent had represented her before the City of Richmond General District Court. Ms. Smith testified that Respondent did not tell her of his suspension, and that it was only when she researched the status of Respondent's license on the Virginia State Bar website that she discovered that Respondent had, in fact, been suspended.

Bar Counsel also called Pamela Jackson who testified that she had hired Respondent to represent her in filing bankruptcy, and that Respondent never told her that his license had been suspended.

Findings.

The Board finds that Respondent has failed to establish by clear and convincing evidence, that he has complied with the Board's Summary Order entered September 24, 2010 and Memorandum Order entered December 8, 2010, with respect to his duties under the Rules of Court, Part Six, §IV, ¶ 13-29, and that Respondent has otherwise failed to show cause by clear and convincing evidence as to why his license should not be revoked.

Sanction.

At the conclusion of the proceedings on June 24, 2011, the Board entered a Summary Order imposing a sanction of REVOCATION of Respondent's license to practice law, believing that Respondent's complete and total disregard of the Board's prior Order and noncompliance with the Rules of the Supreme Court of Virginia directs a sanction of no less severity in order to protect the public and the integrity of the Bar. By this Memorandum Order, we confirm the Summary Order.

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 Respondent's license to practice law in the Commonwealth of Virginia, to all clients for whom Respondent 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 Respondent's care in conformity with the wishes of Respondent's client. Respondent shall give such notice within fourteen (14) days of the effective date of this order, and make such arrangements as are required herein within forty-five (45) days of the effective date of the revocation.

The Respondent shall also furnish proof to the Bar within sixty (60) days of the effective day of this order 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 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 arrangements required by Paragraph 13 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that, pursuant to Part 6, §IV, ¶13-9 (E)(1) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall send a certified copy of this Order by Certified Mail, to Respondent at his last address of record with the Virginia State Bar, at 3900 Westerre Parkway, Suite 300, Richmond, Virginia 23233, and a copy by regular mail to Renu M. Brennan, Assistant Bar Counsel, 707 East Main Street; Richmond, Virginia 23219.

ENTERED this 3rd day of July, 2011.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Thomas R. Scott, Jr.

Thomas R. Scott, Jr., Chairman