

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF)
CARL V. WILLIAMS) VSB Docket No. 11-000-088432
)
Respondent)

OPINION AND ORDER

THIS MATTER came on to be heard on September 23, 2011, before a panel of the Virginia State Bar Disciplinary Board (the "Board") comprised of Raighne C. Delaney, Michael S. Mulkey, Tyler E. Williams, III, Robert W. Carter, Lay Member and Pleasant S. Brodnax, III, 2nd Vice Chair, presiding.

The Virginia State Bar ("the Bar") was represented by Seth M. Guggenheim, Senior Assistant Bar Counsel ("Bar Counsel"). Carl V. Williams (the "Respondent") did not appear in person nor by counsel. 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. The court reporter for the proceeding, Angela N. Sidener of Chandler & Halasz, Post Office Box 9349, Richmond, Virginia 23227, telephone: (804) 730-1222, after duly being sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board upon a Rule to Show Cause and Order of Suspension and Hearing entered by the Board on August 25, 2011 for the Respondent to show cause why the same discipline imposed upon him by the Louisiana Supreme Court for certain misconduct should not also be imposed by the Board. Specifically, the Louisiana Supreme Court suspended Respondent from the practice of law in the State of Louisiana for a period of one year with all but four (4) months deferred subject to the Respondent's successful completion of a two-year period of supervised probation.

A. FINDINGS OF FACT

The Rule to Show Cause and Order of Suspension and Hearing contained findings of fact and alleged that Respondent engaged in the following misconduct:

1. At all times relevant hereto, Respondent has been licensed to practice law in the Commonwealth of Virginia and the State of Louisiana.

2. JoAnn Smith hired the Respondent on April 16, 2008 and paid him \$1,959, which he placed into his operating account. The Louisiana Office of Disciplinary Counsel found that the Respondent violated the Rules of Professional Conduct: Rules 1.5(f)(3) (advance deposit against fees); 1.5(f)(4) (advance deposit must be placed in the lawyer's trust account); 1.15(a) (safekeeping property); 8.4(a) (violation of the Rules of Professional Conduct); and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation).

3. The Louisiana Office of the Disciplinary Counsel also found that the Respondent was hired by Jacqueline Bonner in June 2001 to represent her interests in having her brother removed from the family home on a contingent fee basis, never reduced the agreement to writing and failed to obtain Ms. Bonner's signature on the agreement. His conduct was found to violate Rule 1.5(c) (a contingent fee agreement shall be in writing) of the Rules of Professional Conduct.

The Respondent failed to file a written response to the Board's Rule to Show Cause and Order of Suspension and Hearing entered on August 25, 2011 within 14 days of the date of the mailing of the Board's Order as required by the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-24B. The Respondent has thus failed to establish by clear and convincing evidence any of the grounds of defense found in Part Six, Section IV, Paragraph 13-14(B) of the Rules of the Court that (1) the record of the proceeding in the other jurisdiction would clearly show 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.

Accordingly, it is ORDERED that, pursuant to Part Six, Section IV, Paragraph 13-24G of the Rules of Court, the same discipline that was imposed in Louisiana be imposed in Virginia and that Respondent's license to practice law in Virginia be suspended for one year with all but four (4) months deferred subject to the Respondent's successful completion of a two-year period of supervised probation, pursuant to the decree issued by the Louisiana Supreme Court.

It is further ORDERED that as directed in the Board's Rule to Show Cause and Order of Suspension and Hearing of August 25, 2011, a copy of which was served on Respondent by certified mail, Respondent must comply with the requirements of Part Six, 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 whom 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 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 Bar 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 if the 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 of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Board.

It is further ORDERED that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9E.

It is further ORDERED that the Clerk of the Disciplinary System shall send a certified copy of this Order and Opinion to Carl V. Williams, by certified mail, at his last address of record with the Virginia State Bar, which is Post Office Box 51653, New Orleans, Louisiana 70151-1653, and to Seth Mark Guggenheim, Senior Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803.

Entered this 4th day of November, 2011.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: 
Pleasant S. Brodnax, III, Second Vice Chair