

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
JOHN MICHAEL COPPOLA

VSB Docket No. 11-000-087965

MEMORANDUM ORDER

This matter came on to be heard on December 5, 2011, by the Disciplinary Board of the Virginia State Bar (the Board) by telephone conference upon an Agreed Disposition between the parties, which was presented to a panel of the Board consisting of Jody D. Katz (lay member), Samuel R. Walker, Randall G. Johnson, Jr., David R. Schultz, and Pleasant S. Brodnax, III, 2<sup>nd</sup> Vice Chair, presiding.

The Virginia State Bar appeared through its Bar Counsel, Edward L. Davis. The Respondent appeared with his counsel, David R. Rosenfeld.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented the same to the Panel.

The Chair swore the Court Reporter and 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 they had no such interests.

The Panel heard argument from counsel as well as the Respondent's comments and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Panel accepted the Agreed Disposition by unanimous decision.

#### I. FINDINGS OF FACT

The Disciplinary Board finds the following facts by clear and convincing evidence:

1. At all relevant times, John Michael Coppola, (hereinafter "the Respondent") was licensed to practice law in the Commonwealth of Virginia.
2. The Respondent was disbarred in Maryland on April 29, 2011.
3. As a consequence of disbarment in Maryland, the Respondent was summarily suspended in Virginia on July 29, 2011.
4. This matter is set to be heard before the Disciplinary Board on December 9, 2011, pursuant to the Part 6, Section IV, Paragraph 13-24 of the Rules of the Supreme Court of Virginia.
5. The facts in this matter are not in dispute. The admissions of the Respondent in this matter relate entirely to the estate of decedent Elizabeth L. West. At the time of the actions referenced, Mrs. West was in a near comatose state and was unable to participate in or understand the proceedings.
6. The Respondent has admitted to the following:
  - a. with the knowledge, consent, and participation of Mrs. West's adult children, each of whom was present in the hospital and at the bedside of Mrs. West at all relevant times, the Respondent permitted the forging of Mrs. West's signature to her will by her adult daughter in the Respondent's presence.

b. with the knowledge, consent and participation of Mrs. West's adult children, the Respondent permitted alterations in Mrs. West's trust resulting in the designation of each of Mrs. West's adult children as opposed to only Mrs. West's daughter, Mrs. Swink, as trustee of the trust established under Mrs. West's will;

c. directing the Respondent's mother and his former wife to fraudulently execute Mrs. West's will as witnesses;

d. directing the Respondent's mother and his former wife to falsely swear to their attestation;

e. notarizing the falsely executed will;

f. notarizing the falsely executed changes in the will;

g. notarizing a falsely executed power of attorney;

h. causing the recording of a fraudulent deed with the court; and

i. knowing that the fraudulent will would at some point be presented for probate.

7. The only issue remaining is the determination of an appropriate sanction.

8. Prior to the summary suspension in Virginia, three separate adjudicating bodies in Maryland reviewed the Respondent's conduct and issued three widely differing opinions regarding the imposition of sanctions.

9. On September 30, 2009, the Attorney Grievance Commission of Maryland Peer Review Panel No. 005-10 issued its unanimous decision that a Public Reprimand "would be the appropriate sanction in this one, individual set of circumstances."

10. The case was next reviewed by Judge Jarashow of the Circuit Court for Anne Arundel County. In his opinion issued July 29, 2010, without recommending a specific sanction Judge Jarashow stated “[t]he Court finds by a preponderance of the evidence that the mitigating factors for Mr. Coppola are consistent with the decisions that justify a lesser penalty than disbarment.”

11. Following its review, the Maryland Court of Appeals disbarred the Respondent on April 29, 2011. It should be noted that the Chief Judge (Bell) of the Court of Appeals panel and one other judge (Murphy) filed a dissenting opinion.

## II. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by John Michael Coppola constitutes misconduct in violation of the following Rules of Professional Conduct:

### **RULE 5.3 Responsibilities Regarding Nonlawyer Assistants**

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- (b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
  - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
  - (2) the lawyer is a partner or has managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows or should have known of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

**RULE 8.4    Misconduct**

It is professional misconduct for a lawyer to:

- (a)    violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b)    commit a ... deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;
- (c)    engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that the Respondent's license to practice law in the Commonwealth of Virginia be **SUSPENDED** for a period of two years and six months, effective December 5, 2011.

It is further ORDERED that 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 also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. 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 day 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 Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

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 13-9.E.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a certified copy of this order to John Michael Coppola at his last address of record with the Virginia State Bar, Ryan & Coppola Law Firm, 20 West Market Street, Leesburg, VA 20176, and by regular mail to his counsel, David Ross Rosenfeld, David Ross Rosenfeld, P.C., 1602 Belle View Blvd., #655, Alexandria, VA 22307, and to Edward L. Davis, Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

Jennifer Hairfield, Stenographic Court Reporter, Chandler & Halasz, P.O. Box 9349,  
Richmond, VA 23227, tel. (804) 730-1222, was the court reporter for the hearing and transcribed  
the proceedings.

ENTERED: December 12, 2011

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: Pleasant S. Brodnax III  
Pleasant S. Brodnax, III  
2<sup>nd</sup> Vice Chair