

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF WALTER FRANKLIN GREEN, IV

VSB DOCKET NO. 03-070-3720

ORDER OF SUSPENSION

THIS MATTER first came on to be heard on Friday, November 19, 2004, before a panel of the Virginia State Bar Disciplinary Board convening at the State Corporation Commission, Courtroom B, Tyler Building, 1300 East Main Street, Second Floor, Richmond, Virginia, 23219. The Board was comprised of Robert L. Freed (Chair), V. Max Beard (Lay Member), Bruce T. Clark, Russell W. Updike, and Ann N. Kathan. Proceedings in this matter were transcribed by Tracy J. Stroh, a registered professional reporter, P.O. Box 9349, Richmond, Virginia, 23227, telephone number (804) 730-1222. The court reporter was sworn by the Chair, who then inquired of each member of the panel as to whether any member had any personal or financial interest or bias which would interfere with or influence that members determination of the matter. Each member, including the Chair, answered in the negative; the matter proceeded. The Respondent, Walter Franklin Green, IV, was present and represented himself. The Virginia State Bar appeared by its counsel, Edward L. Davis, Esquire.

The findings of fact found at the hearing on November 19, 2004, were set forth in the Order of the Disciplinary Board entered December 21, 2004. The Board determined that the Bar proved, by clear and convincing evidence, that Respondent violated Rules 1.3(a) and 8.4(b). Based upon its findings that Respondent was in violation of the rules set forth above , the

Disciplinary Board suspended Respondent's license to practice law in the Commonwealth of Virginia for a period of sixty (60) days effective January 15, 2005.

Respondent filed a Motion for Reconsideration on November 29, 2004. The Virginia State Bar filed its Response on December 2, 2004. A telephone hearing was held on January 20, 2005, to consider the Respondent's Motion for Reconsideration. Respondent's Motion was denied by Order dated January 27, 2005. The Respondent appealed to the Supreme Court of Virginia.

The Supreme Court of Virginia rendered its Opinion on September 16, 2005. The Court's opinion upheld the findings of the Disciplinary Board that Respondent violated Rules 8.4(b) and 1.3(a), in part. Specifically, the Supreme Court of Virginia found that Respondent's failure to obtain a reduction of a client's sentence supported the Disciplinary Board's finding of a violation of Rule 1.3(a). However, the Supreme Court of Virginia found that the record did not support a violation of 1.3(a) based upon a "pattern" of failing to appear in court. Accordingly, the Supreme Court remanded the matter back to the Disciplinary Board to reconsider the sixty (60) day suspension imposed upon Respondent.

Respondent filed a Petition for Rehearing with the Supreme Court of Virginia on October 11, 2005. The Supreme Court denied the Petition by Order dated November 11, 2005.

On January 10, 2006, this matter came to be heard solely upon the issue of what sanction to impose upon Respondent for the violations affirmed by the Supreme Court of Virginia. The members of the Disciplinary Board consisted of Robert L. Freed (Chair), V. Max Beard (Lay Member), Bruce T. Clark, Russell W. Updike, and Ann N. Kathan. The court reporter in the proceeding was Donna T. Chandler, a registered professional reporter, P.O. Box 9349,

Richmond, Virginia, 23227, telephone number (804) 730-1222. The court reporter was sworn by the Chair, who then inquired of each member of the Board as to whether any member had any personal or financial interest or bias which would interfere with or influence that members determination of the matter. Each member, including the Chair, answered in the negative; the matter proceeded. The Respondent, Walter Franklin Green, IV, was present and represented himself. The Virginia State Bar appeared through its counsel, Edward L. Davis.

On January 9, 2006, Respondent filed a Motion to Vacate the January 10, 2006, Setting of a Telephone Conference as a Procedurally Inadequate Substitute for a Hearing under Supreme Court Rule, Part 6, §IV, Par. 13 I 2 f (2). Said Motion was overruled by the Chair, with all other Board members concurring in the decision.

On January 10, 2006, Respondent filed a Motion to Expand the Scope of the Evidentiary Hearing Relative to Determination of Sanctions. Said Motion was overruled by the Chair, with all other Board members concurring in the decision.

On January 10, 2006, Respondent objected to Board member Ann N. Kathan participating in the hearing on the basis that she is no longer an active member of the Board. Said objection was overruled by the Chair, with all other Board members concurring in the decision.

The remand being for the determination of sanctions only, no additional evidence was received by the Board. The Board heard arguments from the Bar and Respondent, and then recessed to deliberate what sanction to impose upon its findings of misconduct by Respondent for his violation of Rules 1.3(a) and 8.4(b). After due deliberation during which the Board considered that the seriousness of the two charges of misconduct affirmed by the Supreme Court of Virginia merited, at a minimum, the previously imposed sanction and the Respondent's

extensive disciplinary record, upon which the Board placed great emphasis, the Board unanimously determined that the rule violations still merited a sixty (60) day suspension of Respondent's license to practice law in the Commonwealth of Virginia, effective January 10, 2006.

Accordingly, it is ORDERED that the license to practice law in the Commonwealth of Virginia of Respondent, Walter Franklin Green, IV, shall be suspended for a period of sixty (60) days effective January 10, 2006.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Order to Respondent at his address of record with the Virginia State Bar, being 77 North Liberty Street, P.O. Box 512, Harrisonburg, Virginia, 22803-0512, by certified mail, return receipt requested, and by regular mail to Edward L. Davis, Esquire, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia, 23219.

It is further ORDERED that pursuant to Part Six, §IV, Paragraph 13(B)(8)(C) of the Rules of the Supreme Court of Virginia the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that Respondent must comply with the requirements in Part Six, §IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the sixty (60) day loss of 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 in his care in conformity with the wishes of his clients. Respondent shall give such notice within fourteen (14) days of the

effective date of the suspension, and make such arrangements which 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 suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System of the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13(M) shall be determined by the Virginia State Bar Disciplinary Board which may impose a sanction of revocation or further suspension for failure to comply with the requirements of this subparagraph.

ENTERED this ²24 day of January, 2006



Robert L. Freed, Chair
VIRGINIA STATE BAR DISCIPLINARY BOARD