

VIRGINIA :

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BEFORE THE DISCIPLINARY BOARD OF THE
VIRGINIA STATE BAR

IN THE MATTER OF ROBERT EDMUND LA SERTE, ESQUIRE
VSB Docket Numbers 03-053-0359 and 03-053-0942

ORDER

This matter came on to be heard on January 20, 2005, upon the Agreed Disposition of the Virginia State Bar and the Respondent, based upon the Certification of a Fifth District, Section III Subcommittee. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of William C. Boyce, Jr., Esquire, Joseph R. Lassiter, Jr., Esquire, David R. Schultz, Esquire, Dr. Theodore Smith, lay member, and Karen A. Gould, Chair, presiding. The court reporter attending the proceedings was Valarie Schmidt, Chandler & Halasz Court Reporters, P. O. Box 9349, Richmond, VA 23227, (804) 730-1222.

Seth M. Guggenheim, Esquire, representing the Bar, and the Respondent, Robert Edmund La Serte, Esquire, appearing *pro se*, presented an endorsed Agreed Disposition, dated January 11, 2005, reflecting the terms of the Agreed Disposition.

Having considered the Certification and the Agreed Disposition, it is the decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

1. At all times relevant hereto, Robert Edmund LaSerte, Esquire (hereafter "Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

As to VSB Docket No. 03-053-0359:

2. The Respondent was licensed to practice law in Virginia on October 9, 1997. At times between the date of his licensure and May of 2002, the Respondent used and participated

in the use of professional letterheads, pleadings, and/or other forms of communication to the public, the courts, other attorneys, and the Virginia State Bar, bearing the following names as limited liability companies engaged in, or authorized to engage in, the practice of law in Virginia:

- a. Robert E. La Serte & Associates, LLC
- b. Robert Edmund La Serte and Associates, LLC
- c. La Serte & Associates, LLC
- d. La Serte and Associates, LLC
- e. La Serte, Reaves & Associates, LLC
- f. La Serte Legal Group, LLC

3. Not one of the purported limited liability companies identified in the foregoing paragraph was registered pursuant to Part 6, § IV, ¶ 14 of the Rules of the Supreme Court of Virginia as a professional limited liability company, as required.

4. The only purported limited liability companies identified above which were registered with the Virginia State Corporation Commission were Robert Edmund La Serte and Associates, LLC, and LaSerte Legal Group, LLC.

5. In his response to the Bar Complaint filed in this matter with respect to the status of La Serte Legal Group, LLC, Robert E. La Serte & Associates, LLC, La Serte & Associates, LLC, and La Serte and Associates, LLC, the Respondent falsely stated on August 27, 2002, as follows:

3.) All the various La Serte entities were duly formed corporate entities, registered with the State Corporation Commission, and assigned Tax Identification Numbers by the Internal Revenue Service. This information is a matter of public record.

6. On or about February 2, 1998, Robert Edmund La Serte and Associates, LLC, was organized under the laws of the Commonwealth of Virginia as a limited liability company. The said limited liability company was organized by the Respondent for the purpose of practicing law, and the Respondent and others in fact practiced law through that entity or “Robert E. La Serte & Associates, LLC, a variant of the official name. A nonlawyer “member” of the limited liability company having an ownership interest therein, and rights and duties with respect thereto, was the “La Serte Family Limited Liability Company,” which, in turn, was owned in whole or in part by the Respondent’s parents, Charles Wilson La Serte and Dorothy Davis La Serte. The La Serte Family Limited Liability Company was neither registered with, nor eligible for registration by, the Virginia State Bar as a professional limited liability company authorized to practice law pursuant to Part 6, § IV, ¶ 14 of the Rules of the Supreme Court of Virginia.

As to VSB Docket No. 03-053-0359:

7. In or around August, 2002, the Respondent was sued by his mother and sister for breach of fiduciary duties and tortious conversion and misappropriation of funds.

8. The suit was subsequently amended to include allegations that Respondent’s father’s signature on a will had been forged.

9. In the course of investigating these matters, a Virginia State Bar investigator determined from Virginia attorney Dena M. Roudybush that on or about October 28, 1998, Ms. Roudybush notarized the signature on the Respondent’s father’s purported will at the Respondent’s request after the Respondent and another individual appeared in Ms. Roudybush’s office with the will and stated that the signature appearing thereon was genuine. Ms. Roudybush notarized the document without having witnessed its purported execution or having had the

Respondent's father appear before her to acknowledge the signature thereon as being his own.

The Board finds by clear and convincing evidence that such conduct on the part of Robert Edmund La Serte, Esquire, constitutes a violation of the following provisions of the revised Virginia Code of Professional Responsibility and Rules of Professional Conduct:

DR 1-102. Misconduct.

- (A) A lawyer shall not:
 - (1) Violate a Disciplinary Rule or knowingly aid another to do so.
 - (2) Circumvent a Disciplinary Rule through actions of another.
 - (3) Commit a crime or other deliberately wrongful act that reflects adversely on the lawyer's fitness to practice law.
 - (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation which reflects adversely on a lawyer's fitness to practice law.

DR 2-102. Professional Notices, Letterheads, Offices, and Law Lists.

- (A) A lawyer or law firm may use or participate in the use of a professional card, professional announcement card, office sign, letterheads, telephone directory listing, law list, legal directory listing, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading, or deceptive.

DR 3-103. Forming a Partnership with a Nonlawyer.

- (A) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

DR 5-106. Avoiding Influence by Others Than the Client.

- (C) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:
 - (1) A nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

- (2) A nonlawyer is a corporate director or officer thereof; or
- (3) A nonlawyer has the right to direct or control the professional judgment of a lawyer.

RULE 7.5 Firm Names And Letterheads

- (a) A lawyer or law firm may use or participate in the use of a professional card, professional announcement card, office sign, letterheads, telephone directory listing, law list, legal directory listing, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application, in connection with any certification required to be filed as a condition of maintaining or renewing a license to practice law, in connection with a disciplinary matter, shall not:

- (a) knowingly make a false statement of material fact[.]

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 criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation[.]

Upon consideration whereof, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia shall be suspended for a period of five (5) years, to commence on the 26th day July, 2005. (The commencement date for the suspension provided for herein is the date upon which the Respondent would otherwise be eligible for reinstatement of

his license to practice law in Virginia following a license suspension that was imposed for another disciplinary matter.); and it is further

ORDERED that pursuant to Part Six, § IV, ¶ 13(B)(8)(c) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent; and it is further

ORDERED that the provisions of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia be, and the same hereby are, deemed inapplicable in these matters because the Respondent was made subject to the requirements of those provisions pursuant to a prior disciplinary Order imposing the license suspension currently in force and effect.

It is further ORDERED that a copy teste of this Order shall be mailed by Certified Mail, Return Receipt Requested, to the Respondent, Robert Edmund La Serte, at his address of record with the Virginia State Bar, 1800 Creek Crossing Road, Vienna, VA 22182, and a copy by first class, regular mail, to Seth M. Guggenheim, Assistant Bar Counsel at 100 North Pitt Street, Suite 310, Alexandria, VA 22314-3133.

ENTERED this 24th day of January, 2005.


Karen A. Gould, Chair
Virginia State Bar Disciplinary Board