

VIRGINIA :

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF ANDREW MARK STEINBERG, ESQUIRE

VSB DOCKET NO. 06-000-0083

**ORDER OF SUSPENSION**

THIS MATTER came on to be heard on September 23, 2005 before a panel of the Virginia State Bar Disciplinary Board convening at the Lewis F. Powell United States Courthouse, Tweed Courtroom, 1100 East Main Street, Richmond, Virginia 23219 on Friday, September 23, 2005. The Board was comprised of Joseph Roy Lassiter, Jr., Chair Designate, Theodore Smith, Ph.D., Lay member, Bruce Taylor Clark, Esquire, James Rudy Austin, Esquire, and Sandra Lea Havrilak, Attorney at Law. Proceedings in this matter were transcribed by Theresa Griffith, a registered professional reporter, Post Office Box 9349, Richmond, Virginia 23227, (804) 730-1222. The court reporter was sworn by the Chair, who then inquired of each member of the panel as to whether they had any personal or financial interest or bias which would interfere with or influence that member's determination of the matter. Each member, including the Chair, answered in the negative; the matter proceeded. The Respondent, Andrew Mark Steinberg, was present in person and proceeded *pro se*. The Virginia State Bar appeared by its counsel, Kathryn R. Montgomery, Esquire.

This matter came before the Disciplinary Board as a result of the Respondent being suspended from practicing law in the District of Columbia effective December 30, 2004, by order of the District of Columbia Court of Appeals, docket number 03-BG-801, decided December 30, 2004. A Rule to Show Cause and Order of Suspension and

Hearing was entered on July 26, 2005. Subsequently, an Amended Rule to Show Cause and Order of Suspension and Continuance of Hearing from the Virginia State Bar Disciplinary Board was entered on August 30, 2005 at the request of the Respondent and agreement of Bar Counsel.

### **I. FINDINGS OF FACT**

The Board makes the following findings of fact on the basis of clear and convincing evidence, to-wit:

1) During all times relevant hereto the Respondent, Andrew Mark Steinberg, was an attorney licensed to practice in the Commonwealth of Virginia (except for the period beginning July 26, 2005 to September 23, 2005, when his license to practice law was summarily suspended) and his address of record through July 28, 2005 was 7767 Asterella Court, Springfield, Virginia 22152. Further, on August 10, 2005 Respondent's address of record changed to 3581 Sherbrooke Circle, Woodbridge, Virginia 22192. (VSB Exhibit 1). The Respondent received proper notice of this proceeding as required by Part Six, § IV, ¶ 13(E) and (I)(a) of the Rules of the Virginia Supreme Court.

2) While practicing law in the District of Columbia, Respondent was found to have violated Rules 8.4(d), 8.1(b) and Rule XI, Section 2(b)(3) by failing to cooperate with Bar Counsel and to comply with an order of the Board issued in connection with the investigation of the ethics complaint underlying the matter. At the conclusion of all of his appeals, the District of Columbia Court of Appeals found that clear and convincing evidence existed that the Respondent had, in fact, violated the Rules and suspended Respondent from the practice of law for thirty (30) days and conditioned reinstatement

upon proof of fitness to practice law. This order was final and entered on December 20, 2004.

3) By Rule to Show Cause and Order of Suspension and Hearing dated July 28, 2005, Respondent's license to practice law in Virginia was immediately suspended pursuant to Rules of Court, Part Six, § IV, ¶ 13(I)(7). Respondent was ordered to appear before the Virginia State Bar Disciplinary Board on August 26, 2005 at 9:00 a.m. to show cause why his license to practice law within the Commonwealth of Virginia should not be further suspended.

4) On August 26, 2005 the matter came on for a hearing and, at that time, said Rule contained an error regarding the sanction imposed by the District of Columbia. At the request of the Respondent and consent of Bar Counsel, the Amended Rule to Show Cause and Order of Suspension and Continuance of Hearing was issued requiring Respondent to appear on September 23, 2005 to show cause why his license to practice law within the Commonwealth of Virginia should not be further suspended until such time as his license to practice law in the District of Columbia is reinstated.

5) Virginia State Bar Exhibits 1, 2, 4, 5, 8, and 9 were received without objection. Virginia State Bar Exhibit 7 was admitted over Respondent's objection and Virginia State Bar Exhibits 3 and 6 were not admitted into evidence. Respondent stipulated that he was suspended by the State of Maryland indefinitely until he was reinstated to practice law in the District of Columbia.

## **II. DISPOSITION**

Upon review of the foregoing findings of fact, of the exhibits presented by Bar Counsel on behalf of the Virginia State Bar, upon evidence presented by Respondent in

the form of his own testimony, and at the conclusion of the evidence regarding the misconduct, the Board recessed to deliberate. After due deliberation, the Board reconvened and stated its findings as follows:

A) Paragraph 13(I)(7)(e), Part Six, § IV of the Rules of the Supreme Court of Virginia, entitled “Disbarment or Suspension in Another Jurisdiction” provides in relevant part:

(e) The Respondent shall have the burden of proof, by clear and convincing evidentiary standard, and the burden of producing the record upon which the Respondent relies to support the Respondent’s contentions, the Record is and shall be limited at the hearing to proof of the specific contentions raised in any written response. Except to the extent the allegations of the written response are established, the findings in the other jurisdictions shall be conclusive of all matters for purposes of the Proceedings before the Board.

Further, pursuant to ¶ 13(I)(7)(b)(3), Respondent relies upon the fact that the same conduct would not be grounds for disciplinary action or for the same discipline in Virginia. The Board finds that Respondent has met his burden of proof by clear and convincing evidentiary standard establishing the Virginia State Bar Disciplinary Board would not impose the same discipline as imposed by the District of Columbia Court of Appeals.

The Board further finds that the Commonwealth of Virginia could only impose the thirty (30) days suspension imposed July 26, 2005, on the issuance of the Rule to Show Cause, which Respondent has completed.

It is therefore ordered the suspension effective July 26, 2005 order is hereby terminated effective September 23, 2005.

It is further ordered that pursuant to ¶ 13(I)(2)(f)(2)(c) that Respondent’s license was suspended for thirty (30) days and Respondent has completed said suspension.

It is further ordered that Respondent be reinstated to practice law in the Commonwealth of Virginia forthwith.

It is further ordered that, as directed in the Board's August 20, 2005 Summary Order in this matter, Respondent must comply with the requirements of 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 suspension of thirty (30) days 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 Summary Order and make such arrangements as are required within forty-five (45) days of the effective date of the order. The Respondent shall also furnish proof to the Bar within sixty (60) days, or on or before October 26, 2005, that such notices have been timely given and such arrangements made for the disposition of matters.

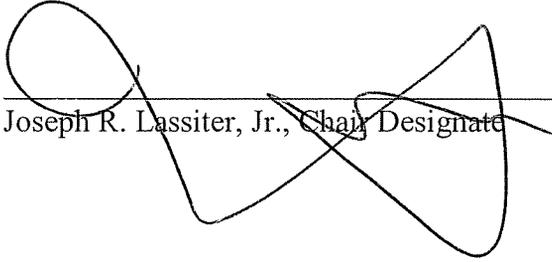
It is further ordered that if the Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by ¶ 13(M) shall be determined by the Virginia State Bar Disciplinary Board, unless Respondent makes a timely request for a hearing before a three (3) judge court.

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 all costs against the Respondent.

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 3581 Sherbrooke Circle, Woodbridge, Virginia 22192, by certified mail, return receipt requested, and by regular mail to Kathryn R. Montgomery, Assistant Virginia State Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

Entered this 3 day of November, 2005.

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
\_\_\_\_\_  
Joseph R. Lassiter, Jr., Chair Designate