VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN RE RONALD MARC COHEN VSB DOCKET NO. 09-000-075107

ORDER OF REVOCATION

This matter came on to be heard on November 21, 2008, at 9:00 a.m., in Courtroom A of the Virginia State Corporation Commission before a panel of the Virginia State Bar Disciplinary Board. The members of the panel were Timothy A. Coyle, Thomas R. Scott, Jr., Arthur Green McGowan, Dr. Theodore Smith, lay member, and Robert E. Eicher, Chair.

The hearing was transcribed by Tracy J. Johnson, a registered professional reporter, Chandler & Halasz, Post Office Box 9349, (804) 730-1222, Richmond, Virginia 23227, who was duly sworn by the Chair.

The Chair inquired of each member of the panel whether he had any personal or financial interest that would preclude, or reasonably could be perceived to preclude, his hearing this matter impartially. Each member and the Chair answered in the negative.

Respondent was not present. His counsel, Bernard J. DiMuro, was present. The Virginia State Bar (the "Bar") was represented by Kathleen Uston, Assistant Bar Counsel. Respondent's counsel renewed his pre-hearing motion for a continuance until a date after Respondent's release from incarceration in March of 2009. Respondent's pre-hearing motion for such continuance had been overruled by the Chair and affirmed by the Supreme Court of Virginia on Respondent's appeal. The Chair overruled Respondent's renewed motion for a continuance of the hearing.

This matter came on for a hearing upon the Bar's Rule to Show Cause and Order of Suspension and Hearing ("Rule to Show Cause") with an attached (i) Plea Memorandum, (ii) a conviction order for Attempted Indecent Liberties, (iii) a conviction order for Internet Solicitation of a Minor, and (iv) the Bar's forms for compliance with Rules of Court, Part Six, § IV, ¶ 13.M. The Rule to Show Cause, with attachments, and all legal notices of the date, time, and place of hearing were timely served on Respondent in the manner prescribed by the Rules of Court, Part Six, § IV. Respondent filed a Response to the Bar's Rule to Show Cause in which he states that he "does not deny his culpability, nor that his actions have harmed his community, and that his conduct does not reflect well upon the legal profession. . . ."

Following opening statements by Bar Counsel and Respondent's counsel, Bar Counsel offered the Bar's Rule to Show Cause and attachments therewith as VSB Exhibit 1 and the transcript of the Arlington Circuit Court's hearing of June 17, 2008, on Respondent's plea of guilty to the indictments as VSB Exhibit 2. The Chair admitted VSB Exhibit 1 and VSB Exhibit 2 into evidence without objection. Bar Counsel and Respondent's counsel stipulated that under a plea agreement, Respondent was sentenced to incarceration for five (5) years on each of the two convictions, with four (4) years of each sentence suspended, to run concurrently, and that, with time already served, Respondent was expected to be released on probation in mid-March 2009.

The Bar rested. Respondent presented no evidence with respect to Respondent's guilty pleas to and conviction of felonies. The Board retired to deliberate in closed session. The Board reconvened in open session, and the Chair announced the Board's finding that Respondent had pled guilty to and been convicted of crimes as defined in Part Six, §IV, ¶13 of the Rules.

Respondent's counsel presented without objection a copy of 14 cases for the Board's consideration of a sanction. Respondent's counsel presented without objection the *de bene esse*

video deposition testimony of Respondent. Respondent's counsel offered Respondent's Exhibits B, C, and D, respectively, and each was admitted into evidence without objection.

Bar Counsel argued aggravating factors contained in Section 9.22 of the ABA's Standards for Imposing Lawyer Sanctions (the "ABA Standards"). Bar counsel stressed the vulnerability of the victim, whom Respondent believed was a 13 year old girl. Respondent's counsel argued mitigating factors contained in Section 9.32 of the ABA Standards. Respondent's counsel stressed Respondent's remorse, absence of a disciplinary record, community activities, and reputation.

Respondent's counsel also argued that Respondent did not meet the criteria in Section 5.11 of the ABA Standards for revocation of his license. The Board notes the commentary to Section 5.11, as follows: "In imposing final discipline in such cases, most courts impose disbarment on lawyers who are convicted of serious felonies. . . ."

Respondent pled guilty to and was convicted of serious felonies. The indictment in VSB Exhibit 2 points up the seriousness of the crimes. Respondent's contemplated, and articulated, sexual activities with a 13 year old girl are simply beyond the pale of decency. That Respondent went to the shopping center to meet a 13 year old girl and, according to him, only have dinner with her is not an exoneration of him. Dinner was but a prelude to his intended sexual activity with her. A 57 year old lawyer having dinner with a 13 year old girl he met on the Internet is but a predatory step illustrative of a moral deficit in his character.

Respondent's counsel observed that Respondent's crimes occurred outside his practice of law. It is true but unavailing. See Maddy v. First District Committee of the Virginia State Bar, 205 Va. 652, 658 (1964); Norfolk & Portsmouth Bar Ass'n. v. Drewry, 161 Va. 833, 838 (1939). He was a lawyer in all events.

Bar Counsel recommended revocation. Respondent's counsel recommended a suspension up to two years. In arriving at a sanction, the Board is mindful of the Virginia Supreme Court's admonition that precedents are of little aid, and that each case is largely governed by its particular facts. Maddy at 658. The Board is mindful, too, of the instruction in Drewry, at 842:

> Proceedings to discipline lawyers are not set on foot to punish them, but to protect the public. It is want of character which is important and not the place where that is made manifest. . . .

The sanction imposed is to deter others and to demonstrate to the public that the VSB will require lawyers' adherence to professional ethics in their conduct. See Morrisey v. Virginia State Bar, 260 Va. 472, 480 (2007).

In this case the convictions upon guilty pleas exhibit an egregious want of character. The integrity of the legal profession and public confidence in it are ill-served by permitting Respondent to hold a license.

DISPOSITION

After due deliberation in closed session, the Board reconvened in open session to announce the sanctions imposed.

Upon consideration of the guilty pleas to and convictions of the crimes, the evidence in aggravation and mitigation, and argument of counsel, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia be and hereby is REVOKED effective November 21, 2008.

It is FURTHER ORDERED that the Respondent comply with the requirements of Part 6, Section IV, paragraph 13(M) of the Rules of the Supreme Court of Virginia. He shall forthwith give notice of the revocation of his license to practice law in the Commonwealth of Virginia by

certified mail, return receipt requested, to all clients for whom he is handling matters and to all opposing attorneys and presiding judges in pending litigation. He shall also make appropriate arrangements for the disposition of matters currently in his care in conformity with the wishes of each client. He shall give such notice within fourteen (14) days of the effective date of the revocation and make such arrangements as are required within forty-five (45) days of the effective date of revocation. Within sixty (60) days of the effective date of the revocation, he shall also furnish proof to the Bar that such notices have been timely given and such arrangements made for the disposition of matters. If the Respondent is not handling any client matters on the effective date of his revocation, he must submit an affidavit to that effect to the Clerk of the Disciplinary System.

It is FURTHER ORDERED that all issues concerning the adequacy of the notice and arrangements required by Paragraph 13(M) shall be determined by the Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is FURTHER ORDERED that the Respondent's license shall not be reinstated unless and until the Respondent shall have fully complied with the provisions of Part 6, Section IV, Paragraph 13.1.8.b of the Rules of the Supreme Court.

It is FURTHER ORDERED that pursuant to Part 6, Section IV, Paragraph 13.B.8(c) of the Rules, the Clerk of the Disciplinary System shall assess all costs in this matter against the Respondent; and

The Clerk of the Disciplinary System shall mail an attested copy of this Order, by certified mail, to the Respondent, care of his counsel, Bernard J. DiMuro, Esq., DiMuroGinsbergPC, 908 King Street, Suite 200, Alexandria, Virginia 22314, and shall also mail a copy to Kathleen Uston,

Esq., Assistant Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria Virginia 22314-3133.

ENTERED this 17th day of December, 2008.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Robert E. Eicher, Chair

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