

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
MICHAEL ANTHONY COLE

VS B Docket No. 20-090-117131
VS B Docket No. 19-090-114614

MEMORANDUM ORDER OF REVOCATION

I. INTRODUCTION

THESE MATTERS CAME TO BE HEARD on February 21, 2020, before a panel of the Virginia State Bar Disciplinary Board (“the Board”) consisting of Yvonne S. Gibney (presiding (“the Chair”)); Kamala H. Lannetti; Stephanie G. Cox; Tony H. Pham; and Stephen A. Wannall, Lay Member. The Virginia State Bar (“the VSB”) was represented by Edward J. Dillon, Senior Assistant Bar Counsel (“Bar Counsel”). The Board received into evidence as Board Exhibit 1 an email, dated February 21, 2020, from the Respondent to the Clerk of the Disciplinary System (“Clerk”), in which Respondent stated that he would not be attending the hearing due to the weather and his health.¹ The Chair opened the hearing by calling the case in the hearing room and causing the Assistant Clerk to call Respondent’s name three times in the adjacent hall. The Respondent did not answer or appear and was not represented by counsel.

Jennifer L. Harfield, court reporter, Chandler & Halasz, Inc., P.O. Box 9349, Richmond, VA 23227, (804) 730-1222, after being duly sworn, reported the proceedings.

At the outset of the hearing, the Chair inquired of the members of the Board whether any of them had any personal or financial interest or bias which would preclude him or her from fairly

¹ Respondent filed no motion for continuance, nor did he otherwise request that the hearing of these matters be rescheduled for any reason.

hearing these matters and serving on the Board. All members of the Board, including the Chair, responded in the negative.

These matters came before the Board on the Subcommittee Determinations (Certifications) by the Ninth District Subcommittee, pursuant to Part Six, § IV, ¶ 13-18 of the Rules of the Supreme Court of Virginia (“Rules”) involving misconduct charges against the Respondent. Prior to the proceedings and at the final Pretrial Conference, VSB Exhibits 1-13 (in VSB Docket No. 19-090-114614) and VSB Exhibits 1-20 (in VSB Docket No. 20-090-117131) were admitted into evidence by the Chair, without objection from the Respondent.²

All legal notices of the date and place were timely sent by the Clerk in the manner prescribed by the Rules.

II. MISCONDUCT PHASE

The misconduct phases of VSB Docket Nos. 20-090-117131 and 19-09-114614 were conducted consecutively with the testimony and evidence with respect to VSB Docket No. 20-090-117131 taken first to accommodate one of the witnesses. The Board found all testifying witnesses to be credible.

During the misconduct phase of VSB Docket No. 20-090-117131, the Board accepted into evidence VSB Exhibit 21, and the Board heard testimony from the following sworn witnesses: Joseph D. Crabb and VSB Investigator Lisa Marshall.

During the misconduct phase of VSB Docket No. 19-09-114614, the Board accepted into evidence VSB Exhibits 14 and 15 and the Board heard sworn testimony from VSB Investigator Lisa Marshall.

² Respondent did not file or submit any exhibits with respect to either of the two cases.

The Board considered the exhibits introduced, heard arguments of Bar Counsel, and met in private to consider its decision on the two complaints.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all relevant times, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia. His firm was known at all relevant times as Michael A. Cole, P.C., in which he practiced as a solo attorney.

VSB DOCKET NO. 20-090-117131

2. Sometime prior to January 2018, Respondent approached Joseph Crabb (“Joseph”), a former client of Respondent, about establishing a trust for Joseph's father, Charles E. Crabb (“Mr. Crabb”), who was in declining health. Respondent convinced Joseph, who already held a durable power of attorney for his father, to establish the trust and Respondent then drafted a trust document. Respondent never discussed the creation of the trust with Mr. Crabb.
3. In or about January 2018, the Charles E. Crabb Irrevocable Trust (the “Trust”) was created. The trust document appointed Respondent as trustee of the Trust and Respondent signed the trust document as “Trustee or Designated Agent Thereof[.]” (VSB Exhibit #10, pp. 212-215).
4. The trust document stated that Mr. Crabb transferred into the Trust “the property shown on the attached schedule (Schedule A)[.]” However, no Schedule A was provided to the VSB. The assets transferred to the Trust included about \$68,000 from Mr. Crabb’s checking and savings accounts.

5. The terms of the Trust gave Respondent the powers set forth in Virginia Code Section 64.2-105, and specifically authorized Respondent, as trustee, to make investments, and to make quarterly or more frequent distributions of income generated by the property held by the Trust to Mr. Crabb's two beneficiaries – his wife, who is not identified by name in the trust document, and his son, Joseph. Accordingly, as trustee, Respondent was acting in a fiduciary capacity toward the beneficiaries at all relevant times.
6. The Trust also provided that Respondent would be entitled to receive “as compensation for [his] services as Trustee the fees normally charged to similar trusts by local banks or other trustees.” Virginia Code Section 64.2-761 provides that “[i]f the terms of a trust do not specify the trustee’s compensation, a trustee is entitled to compensation that is reasonable under the circumstances.”
7. In or about January 2018, Respondent opened a bank account at American National Bank & Trust Company (the “Trust Checking Account”) in the name of the Trust. Respondent was identified on the checks and bank statements for the Trust Checking Account as trustee for the Trust. (VSB Exhibit # 15).
8. On or about January 25, 2018, Joseph transferred \$68,000 in funds belonging to Mr. Crabb into the Trust Checking Account.
9. At some point after the Trust Checking Account was opened, Respondent gave Joseph three blank checks (the “Blank Checks”), drawn on the Trust Checking Account, that Respondent had signed in case Joseph needed cash from the Trust Checking Account.
10. By check dated August 29, 2018 and drawn on the Trust Checking Account, Respondent, in his capacity as trustee, paid \$25,000 to Joseph for a down payment on a house.

11. On or about January 28, 2019, Respondent, in his capacity as trustee, executed a Quitclaim Deed by which the Trust quitclaimed all “right, title and interest” in Mr. Crabb’s Home to Joseph.
12. On or about July 30, 2019 Respondent gave Joseph a \$15,000 check to pre-pay Mr. Crabb’s funeral expenses. The check was not drawn on the Trust Checking Account, however. It was drawn on Respondent’s operating account. (VSB Exhibit #s 17, 21).
13. On or about August 20, 2019, Mr. Crabb died.
14. On or about September 18, 2019, Respondent emailed Joseph a document dated September 17, 2019 and entitled “Release,” which stated:

Joe-Joe:
Attached is the release I got approved from the State Bar to dissolve the Trust. Please print and sign it and take a photo and text it back to me so I can go on to the bank.
Thanks and call if you have any questions.
Regards,

(VSB Ex. # 7)
15. Joseph signed the Release, which authorized Respondent, in his capacity as trustee, to dissolve the Trust and distribute the \$28,685.33 purportedly remaining in the Trust Checking Account to Joseph.
16. Despite the Release, Respondent did not thereafter pay any amount to Joseph.
17. On or about October 12, 2019, Respondent gave Joseph an envelope containing a check for \$29,000 with the notation “Transfer Advance” written on the memo line. The check was drawn on the operating account for Respondent’s law firm at BB&T Bank. (VSB Ex. #14). It was not drawn on the Trust Checking Account.
18. The envelope with the \$29,000 check also contained a handwritten note from Respondent to Joseph dated October 12, 2019, stating:

Joey,

Please hold this for deposit until Monday to give the money I have had to transfer into this account time to clear. Also, check your own account Monday morning, & return this to me if the money has shown up there in your acct so this money does not have to be re-transferred. Thanks

Again, I'm sorry for this confusion and delay.

Regards,

Michael

(VSB Exhibit #14, pp. 226-227).

19. On October 15, 2019, Joseph attempted to negotiate the \$29,000 check at BB&T Bank. Joseph was told by the bank teller that she could not cash the \$29,000 check, and Joseph did not receive the funds.
20. Records later obtained by the VSB from BB&T Bank by subpoena show that the account on which Respondent issued the \$29,000 check had a balance of \$1,483.36 on September 30, 2019 and a balance of negative \$294.99 on October 31, 2019. At no point between September 30, 2019 and October 31, 2019 did the balance of the account on which the \$29,000 check was issued exceed \$2,500. (VSB Exhibit #17).
21. Respondent subsequently told Joseph that he would pay Joseph an additional \$2,000 because of the delay Joseph was experiencing in receiving the funds from the Trust Checking Account.
22. On October 22, 2019, Joseph filled out one of the Blank Checks, making \$2,000 from the Trust Checking Account payable to himself, and presented the check to a bank teller at American National Bank & Trust. The bank teller told Joseph that there were insufficient funds in the Trust Checking Account to cover the \$2,000 check, and Joseph did not receive the funds.

23. On or about October 23, 2019, Joseph met with Pittsylvania County Commonwealth's Attorney Robert Haskins and expressed his concern that Respondent may have misappropriated \$29,000 from the Trust Checking Account.
24. On or about October 23, 2019, Mr. Haskins filed a complaint against Respondent with the VSB. (VSB Exhibit # 4).
25. By letter dated October 28, 2019, the VSB sent a copy of the complaint to Respondent, demanded that Respondent submit a written response to the complaint within 21 days, and reminded Respondent of his obligation under Rule of Professional Conduct 8.1(c) to comply with lawful demands for information from the VSB.
26. Respondent has not submitted a written response to the complaint.
27. The VSB issued a subpoena to Respondent for records relating to the Trust, a subpoena to American National Bank & Trust for records relating to the Trust Checking Account, and a subpoena to BB&T Bank for records relating to Respondent's law firm and/or law practice.
28. Respondent did not respond to the subpoena issued to him.
29. Records produced by American National Bank & Trust in response to its subpoena (the "Bank Records") show that, between January 30, 2018 and October 15, 2019, Respondent, in his capacity as trustee, wrote 23 separate checks drawn on the Trust Checking Account and made payable to either Respondent or Respondent's law firm (the "Trustee Payments").

The Trustee Payments are as follows:

- a. \$1,360 "Trustee Fee" payable to Michael A. Cole, PC on January 30, 2018;
- b. \$640 "Trustee Fee" payable to Michael A. Cole on February 13, 2018;
- c. \$1,320 "T'ee Fee" payable to Michael A. Cole on February 23, 2018;
- d. \$1,600 "Trustee Fee" payable to Michael A. Cole on March 12, 2018;
- e. \$2,000 "T'ee Fee" payable to Michael A. Cole on April 14, 2018;
- f. \$2,000 "Fee" payable to Michael A. Cole on April 21, 2018;

- g. \$500 "Fee" payable to Michael A C on April 30, 2018;
- h. \$2,000 "Fee" payable to Michael A. Cole on September 5, 2018;
- i. \$1,400 "Fee Advance" payable to Michael A. Cole on October 5, 2018;
- j. \$2,000 "Fee" payable to Michael A. Cole on November 2, 2018;
- k. \$500 "Fee" payable to Michael A. Cole on November 2, 2018;
- l. \$2,000 "Fee" payable to Michael A. Cole on November 19, 2018;
- m. \$1,000 "Fee" payable to Michael A. Cole on November 30, 2018;
- n. \$5,000 "Fee" payable to Michael A. Cole on December 6, 2018;
- o. \$1,000 payable to Michael A. Cole on January 1, 2019;
- p. \$500 "Fee" payable to Michael A. Cole on January 4, 2019;
- q. \$1,000 "Fee" payable to Michael A. Cole on January 9, 2019;
- r. \$500 "Fee" payable to Michael A. Cole on January 14, 2019;
- s. \$1,000 "Fee" payable to Michael A. Cole on January 14, 2019;
- t. \$12,000 "Fee" payable to Michael A. Cole on February 22, 2019;
- u. \$5,000 "Fee" payable to Michael A. Cole on May 6, 2019, which was returned because the Trust Checking Account did not have sufficient funds to cover the check;
- v. \$2,500 "Fees" payable to Michael A. Cole on May 10, 2019; and
- w. \$350 "Fee" payable to Michael A. Cole on October 15, 2019.

(VSB Exhibit # 15).

- 30. In total, Respondent, in his capacity as trustee, paid approximately \$42,170 from the Trust Checking Account to himself or his law firm over a period of about 22 months. (VSB Exhibits # 15 and 17). Joseph authorized none of the payments to Respondent and never received any statements from Respondent reflecting the receipts and disbursements from the Trust, as required by the Trust. (VSB Exhibit #10).
- 31. The Bank Records reflect that, excluding the Blank Checks, only two checks drawn on the Trust Checking Account were written to a payee other than Respondent or Respondent's law firm: (a) a July 1, 2018 check for \$500 that was made payable to "cash" and was endorsed by Respondent and (b) the aforementioned August 29, 2018 \$25,000 check to Joseph for a down payment on a house.
- 32. The Bank Records also reflect that, as of August 2019, when Mr. Crabb died, the balance in the Trust Checking Account was \$602.71.

33. The Bank Records also reflect that in September 2019, when Respondent provided Joseph with the Release indicating that \$28,685.33 remained in the Trust Checking Account, the actual balance in the Trust Checking Account was \$590.71.
34. The Bank Records also reflect that, on or about October 15, 2019, after Joseph had demanded that the balance of funds in the Trust Checking Account be paid to him, Respondent wrote a check to himself for \$350, drawn on the Trust Checking Account, with the notation "Fee" written on the memo line.
35. As of early November 2019, the balance in the Trust Checking Account was \$202.73.
36. In or about December 2019, as part of the investigation of this complaint, VSB Investigator Lisa Marshall requested by letter, email, and voicemail message that Respondent contact her to set up an interview about this matter. Respondent did not contact Ms. Marshall, nor has he made himself available to be interviewed.

VSB DOCKET NO. 19-09-114614

37. Barbara L. Shelton (Ms. Shelton) retained Respondent to represent her in a personal injury matter related to a motor vehicle accident.
38. Ms. Shelton received chiropractic services from Cornerstone Chiropractic and Dr. Brian Robbins, DC, CCSP, ACRB1 ("Dr. Robbins") to treat injuries she sustained in the motor vehicle accident.
39. On October 3, 2016 Ms. Shelton executed an irrevocable assignment of benefits, authorization, lien, notice to automobile accident patients, non-rescindable agreement letter, and notice of lien for Dr. Robbins' services.

40. Between October 3, 2016 and March 5, 2018 Ms. Shelton had 82 visits to Dr. Robbins' office and incurred a medical bill of \$13,515 for that care. After payments by her health insurance, Ms. Shelton had an outstanding balance of \$8,867.21.
41. After numerous attempts over more than six months to recover the amount of his lien from Respondent, Dr. Robbins filed a complaint with the VSB on January 16, 2019. (VSB Exhibit #14).
42. VSB Investigator Lisa Marshall investigated that matter, including Respondent's applicable bank account records.
43. Those records reflect that on April 4, 2018, Respondent received a check for the reimbursement of Ms. Shelton's medical expenses from Erie Insurance in the amount of \$2,557.99, which was deposited into Respondent's operating account – not into his firm's trust account. (VSB Exhibit #10).
44. Respondent received a \$25,000 settlement check for Ms. Shelton from Nationwide Insurance, which Respondent deposited on May 3, 2018 into Respondent's operating account – not into the firm's trust account. (VSB Exhibit #10).
45. In his March 19, 2019 response to the Bar Complaint filed by Dr. Robbins, Respondent stated that the statutory cap for recovery of such fees is \$3,250 and further represented, "I have reserved sufficient funds to pay that maximum lien amount and am prepared to submit such payment upon agreement that the obligation is satisfied." (VSB Exhibit # 5)
46. At the time Respondent made this representation, Respondent's trust account had a balance of \$6.52 (VSB Exhibit #9) and within days after this representation his operating account had a balance of only \$166.66. (VSB Exhibit #10). Respondent had not retained enough

funds to pay Dr. Robbins the amount of the alleged statutory cap, let alone the full amount of the lien.

47. Investigator Marshall made numerous attempts to interview Respondent and obtain his relevant records to investigate this complaint during 2019. Respondent made many excuses for not providing records or participating in an interview and ultimately stopped communicating at all with the VSB after August of 2019. At no time has Respondent stated that he did not have the records, nor has he admitted that there were insufficient funds in the trust account to satisfy Dr. Robbins' lien.

NATURE OF MISCONDUCT

After deliberating on the evidence, testimony, and argument of Bar Counsel in VSB Docket Nos. 20-090-117131 and 19-09-114614, the Board found by clear and convincing evidence that Respondent had engaged in misconduct in violation of the following provisions of the Rules of Professional Conduct:

VSB Docket No. 20-090-117131

The Board found that there was clear and convincing evidence of violations of the following Rule:

Rule 1.15 Safekeeping Property

. . .

(b) Specific Duties. A lawyer shall:

. . .

(5) not disburse funds or use property of a client or of a third party with a valid lien or assignment without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

The evidence cited above demonstrates that Respondent did not maintain funds belonging to the Trust in the Trust Checking Account when he was acting in a fiduciary capacity as trustee of the

Trust. It further demonstrates that Respondent disbursed more than \$42,000 to himself from the Trust Checking Account while acting as its trustee.

The Board also found that there was clear and convincing evidence of violations of the following Rule:

Rule 4.1 Truthfulness In Statements To Others

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of fact or law[.]

The evidence clearly demonstrated that Respondent misrepresented to Joseph the amount of funds in the Trust Checking Account while Respondent was acting in a fiduciary capacity as the trustee of the Trust. See paragraphs 9, 17-22 and, 29-35.

The Board also found that there was clear and convincing evidence of violations of the following Rule:

Rule 8.1 Bar Admission And Disciplinary Matters

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

. . .

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6[.]

The evidence demonstrated that Respondent did not cooperate with the VSB's investigation of this matter. He did not file a response to the complaint. He did not respond to the subpoena issued to him by the VSB for his records related to the Trust. He did not make himself available to the VSB to be interviewed concerning this matter.

The Board also found that there was clear and convincing evidence of violations of the following Rule:

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

. . .

(b) commit a criminal or 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[.]

The evidence shows that Respondent converted more than \$42,000 from the Trust Checking Account when he was its trustee. He misrepresented to Joseph, the beneficiary of the Trust, that more than \$28,000 remained in the Trust Checking Account when less than \$1,000 remained. He disbursed \$350 from the Trust Checking Account to himself after Mr. Crabb's death and after Joseph had requested that Respondent disburse the remaining funds from the Trust to Joseph.

The Board did not find sufficient evidence of a violation of Rule 8.1(d).

VSB Docket No. 19-090-114614

The Board found that there was clear and convincing evidence of violations of:

RULE 1.15 Safekeeping Property

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

. . .

(b) Specific Duties. A lawyer shall:

. . .
(5) not disburse funds or use property of a client or of a third party with a valid lien or assignment without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

The evidence demonstrates that Respondent did not deposit Ms. Shelton's medical expense reimbursement check or settlement check into his trust account. Respondent did not maintain sufficient funds in his trust account or his operating account to satisfy Dr. Robbins' lien after being notified of the lien and stating that he would protect and honor it.

The Board also found that there was clear and convincing evidence of violations of:

Rule 4.1 Truthfulness In Statements To Others

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of fact or law[.]

The evidence demonstrates that Respondent represented to Dr. Robbins in a May 31, 2018 letter that he would protect and honor Dr. Robbins' \$8,867.21 lien, when Respondent had insufficient funds in his trust or operating accounts to satisfy the lien.

The Board also found that there was clear and convincing evidence of violations of:

Rule 8.1 Bar Admission And Disciplinary Matters

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

(a) knowingly make a false statement of material fact;

. . .

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6[.]

The evidence demonstrates that Respondent falsely stated in his response to the bar complaint that he had reserved enough funds to pay Dr. Robbins' lien when he did not have enough funds in either his trust account or operating account to do so. The evidence further shows that Respondent did not cooperate with the VSB in its investigation of the bar complaint when he failed to produce the relevant records to the VSB investigator, when he failed to respond to the VSB's subpoena for his records, and when he failed to make himself available to the VSB to be interviewed about the bar complaint.

The Board also found that there was clear and convincing evidence of violations of:

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

. . .

- (b) commit a criminal or 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[.]

The evidence demonstrates that Respondent failed to pay Dr. Robbins' lien from the \$25,000 settlement proceeds when he knew of and had acknowledged the lien. It further shows that Respondent failed to maintain sufficient funds in his trust or operating account to pay Dr. Robbins' lien despite his statement to Dr. Robbins that he would protect and honor the lien and despite his representation to the VSB that he had reserved sufficient funds to pay the lien when he had not. The evidence also demonstrates that Respondent did not inform the VSB or provide records to the VSB that showed whether he had reserved enough funds to satisfy Dr. Robbins' lien.

The Board found that there was insufficient evidence of violations of the following Rules: Rule 1.15(c) and Rule 8.1(d).

III. SANCTION PHASE

After the Board announced its finding by clear and convincing evidence that the Respondent had committed the above noted violations, it received further evidence regarding aggravating and mitigating factors applicable to the appropriate sanction for the conduct of the Respondent underlying the rule violations. The Board admitted the Respondent's Disciplinary Record with the Bar as VSB Exhibit #22, in VSB Docket No. 20-090-117131 and VSB Exhibit #16, in VSB Docket No. 19-090-114614. This document reflected that Respondent had no prior disciplinary history.

In consideration of an appropriate sanction the Board considered the aggravating and mitigating factors outlined in the ABA's Standards for Imposing Lawyer Sanctions.

The Board found the following aggravating factors: Respondent's misconduct reflects that Respondent had a dishonest or selfish motive, having converted more than \$42,000 from the Trust and more than \$8,800 that was owed to Dr. Robbins pursuant to Dr. Robbins' lien; Respondent engaged in a pattern of misconduct through which he repeatedly took money that did not belong to him; he engaged in multiple offenses that harmed his clients and those to whom he had a fiduciary relationship; he submitted false statements during the VSB's disciplinary process; he has not acknowledged the wrongful nature of his misconduct; his victims were vulnerable; Respondent has substantial experience as an attorney, both in Virginia for 15 years, and in Georgia for 30 years; and Respondent has made no effort to make restitution to those he has harmed financially.

With respect to the vulnerability of Respondent's victims, the Board found that Respondent took advantage of Joseph Crabb, who was struggling with the care and ultimate death of his father, Charles, while Respondent siphoned funds from the Trust for which he served as fiduciary.

Likewise, Respondent's misconduct resulted in a lawsuit filed by Dr. Robbins against Respondent's client, Barbara Shelton, to recover funds Respondent had an obligation to pay to Dr. Robbins.

The Board found the following mitigating factors: Respondent has no prior discipline record. Respondent has also claimed to the VSB Investigator and the Board that both he and his wife have serious health issues that have required medical treatment in the past year, although there is no documentation other than Respondent's own representations to support this.

Upon receipt of the evidence presented in mitigation or aggravation of findings of misconduct, and argument from Bar Counsel, the Board recessed to deliberate what sanction to impose. After due deliberation, the Board reconvened in open session and announced that it had found that Respondent's license to practice law in the Commonwealth of Virginia should be revoked. Accordingly, it is ORDERED that the license of the Respondent, Michael Anthony Cole, is hereby REVOKED, effective February 21, 2020.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation 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 revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Virginia State Bar within 60 days of the effective

date of the revocation 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 his revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days of the effective date of his revocation. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Board, which may impose an additional sanction of Revocation or Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13-9 E of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against the Respondent.

It is further ORDERED that the Clerk shall forward an attested copy of this Order to the Respondent, Michael Anthony Cole, by certified mail, return receipt requested, to his Virginia State Bar address of record, at Michael A. Cole, PC, 4122 Virgie Cole Road, South Boston, Virginia 24592; and by hand delivery to Edward J. Dillon, Senior Assistant Bar Counsel, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026.

ENTERED THIS 23rd DAY OF MARCH 2020

VIRGINIA STATE BAR DISCIPLINARY BOARD

Yvonne S. Gibney
Second Vice Chair