

**VIRGINIA**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
RICHARD ORDWAY GATES**

**VSB DOCKET NO. 18-000-112348**

**RECIPROCAL MEMORANDUM ORDER**

**THIS MATTER** came to be heard on September 28, 2018, on the Rule to Show Cause and Order of Hearing entered on August 31, 2018, (the “Rule to Show Cause”) to which were attached the Memorandum Opinion and Order Imposing Sanctions Upon Richard O. Gates of the United States Bankruptcy Court for the Eastern District of Virginia, dated April 5, 2018, barring Respondent from practicing law before the U.S. Bankruptcy Court for the Eastern District of Virginia for six (6) months and from entering the courthouse. The panel of the Disciplinary Board (“Board”) consisted of Lisa A. Wilson, Chair, Brendan K. Feeley, Sandra M. Rohrstaff, Tony H. Pham, and Tamera D. Stephenson, Lay Member. The Virginia State Bar was represented by Assistant Bar Counsel Kathleen M. Uston, (“Bar Counsel”). The Respondent was present and was represented by Michael L. Rigsby. The Chair polled the members of the panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative. Jennifer L. Hairfield, court reporter, P.O. Box 9349, Richmond, VA 23227, phone number 804-730-1222 after being duly sworn, reported the hearing and transcribed the proceedings.

All required notices were timely sent by the Clerk of the Disciplinary System (“Clerk”), to the Respondent by Certified Mail, in the manner prescribed by law.

**Findings of Fact**

The Board finds by clear and convincing evidence that:

1. The United States Bankruptcy Court is a “jurisdiction” under Paragraph 13-24 A of the Rules of the Supreme Court of Virginia, and that its Order dated April 5, 2018, suspending the license of the Respondent to practice law before the United States Bankruptcy Court for the Eastern District of Virginia for a period of six (6) months has become final. In its Memorandum Opinion, also dated April 5, 2018, the Court cited Virginia Rule of Professional Conduct 8.4(b) as well as Local Bankruptcy Rule 2090-I(J).
2. The 1<sup>st</sup> Vice Chair of the Board in response thereto, entered a Rule to Show Cause and Order of Hearing dated August 31, 2018 (the “Board Order”), in accordance with paragraph 13-24 B.
3. The Respondent filed a timely written response under paragraph 13-24 C.
4. The parties were advised and acknowledged that they understood the nature of the proceedings in that the hearing was to provide the Respondent with an opportunity to show cause, by clear and convincing evidence, why the same discipline that was imposed upon him by the United States Bankruptcy Court should not be imposed by the Board.
5. The Board took judicial notice of the proceedings in the United States Bankruptcy Court for the Eastern District of Virginia which were duly served on the Respondent. The Rule to Show Cause and Order of Hearing dated August 31, 2018, the Memorandum Opinion of the United States Bankruptcy Court for the Eastern District of Virginia dated April 5, 2018, the Order Imposing Sanctions Upon Richard O. Gates dated April 5, 2018, and the Clerk’s notice letter to Respondent were collectively admitted into evidence as Board Exhibit 1. The Board accepted the United States Bankruptcy Court orders as conclusive to the panel.
6. Respondent’s Exhibits 1 – 3 (Order to Show Cause issued by the United States Bankruptcy Court for the Eastern District of Virginia, Transcript of the April 4, 2018 hearing on the Order to Show Cause, and Memorandum Opinion of the United States Bankruptcy Court for the Eastern District of Virginia dated April 5, 2018) were admitted without objection.

7. Respondent testified on his own behalf and presented testimony from two experienced bankruptcy practitioners. Both witnesses have dealt extensively with the Respondent over their many years of practice before the United States Bankruptcy Court.

8. Bruce White has known the Respondent professionally for more than thirty (30) years. He was present at the April 4, 2018 Show Cause hearing before the United States Bankruptcy Court, was aware of the conduct by Respondent which was at issue, and understood the court's rationale for imposing the six-month suspension. However, Mr. White did not believe that the nature of the misconduct found by the court rendered Respondent unfit to practice law in the Commonwealth.

9. The Bar did not offer testimony. The Affidavit of Good Standing (Board Exhibit 2), March 29, 2018 Court Facility Incident Report (Board Exhibit 3), and the Certification of Respondent's Disciplinary Record (Board Exhibit 4) were admitted without objection.

10. At the conclusion of the evidence, both parties agreed to consolidate the finding and sanctions phases of the hearing.

Following the arguments of both Counsel, the Board recessed and duly deliberated on this matter.

After considering the arguments of counsel, the testimony of the witnesses, and the exhibits admitted into evidence, the Board finds that the Respondent proved by clear and convincing evidence that the conduct for which the Bankruptcy Court sanctioned him, "disruptive and abusive behavior" towards court security personnel, would not be grounds for the same or equivalent discipline in Virginia and that a lesser discipline should be imposed.

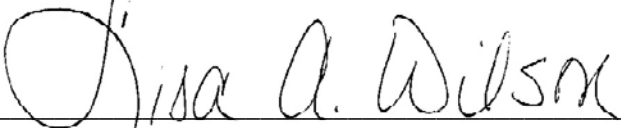
Accordingly, is it ORDERED that the Respondent be, and hereby is, issued a PUBLIC REPRIMAND.

It is further ORDERED that pursuant to Part Six, Section IV, paragraph 13-9E 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 10030 Ironbridge Rd., Chesterfield, VA 23832, by certified mail, return receipt requested, his counsel of record, Michael L. Rigsby, PO BOX 29328, Henrico, VA 23242, and by hand delivery to Kathleen Uston, Virginia State Bar, 1111 East Main St., Suite 700, Richmond, VA 23219.

ENTERED this 17th day of October, 2018

VIRGINIA STATE BAR DISCIPLINARY BOARD

A handwritten signature in black ink that reads "Lisa A. Wilson". The signature is written in a cursive style and is positioned above a horizontal line.

Lisa A. Wilson, Chair