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VIRGINIA:

BEFORE THE CIRCUIT COURT FOR THE COUNTY OF HANOVER'S OFFICE

**IN THE MATTER OF
JOSEPH FRANCIS GROVE**

**CASE NO. CL16003129-00
VSB DOCKET NO. 15-033-102813**

AGREED DISPOSITION MEMORANDUM ORDER

This matter came to be heard on December 16, 2016, before a Three-Judge Circuit Court, upon the joint request of the parties for the Court to accept the Agreed Disposition endorsed by the parties and offered to the Court as provided by the Rules of the Supreme Court of Virginia. The panel consisted of the Honorable Cheryl V. Higgins, Judge of the Sixteenth Judicial Circuit, Designated Chief Judge, the Honorable Daniel T. Balfour, Judge of the Fourteenth Judicial Circuit, and the Honorable Ray W. Grubbs, Judge of the Twenty-seventh Judicial Circuit. Joseph Francis Grove was present and was represented by counsel, Jeffrey H. Geiger. The Virginia State Bar appeared through its Bar Counsel, Edward L. Davis. The Chief Judge polled the members of the court as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each judge responded in the negative. Court Reporter Jennifer L. Hairfield, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

WHEREFORE, upon consideration of the Amended Charge of Misconduct, Respondent's Answer to the Amended Charge of Misconduct, Respondent's Disciplinary Record, the Arguments of the Parties, and after due deliberation,

It is **ORDERED** that the Circuit Court accepts the Agreed Disposition and the Respondent shall receive a Public Admonition, as set forth in the Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective December 16, 2016.

The Clerk of the Disciplinary System shall assess costs pursuant to ¶13-9 E. of the Rules.

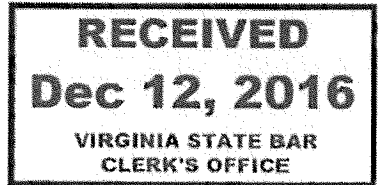
A copy teste of this Order shall be mailed, certified mail, return receipt requested, to the Respondent, Joseph Francis Grove, at his last address of record with the Virginia State Bar, Joseph F. Grove, PC, 90907 Atlee Station Rd., Suite 116, Mechanicsville, VA 23116, with an attested copy to: Jeffrey H. Geiger, Respondent's Counsel at Sands Anderson, PC, Bank of America Plaza, 1111 E. Main St., Suite 200, P.O. Box 1998, Richmond, VA 23218-1998, and to Edward L. Davis, Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026, and to the Clerk of the Disciplinary System, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026.

ENTERED THIS 16 DAY OF December, 2016

CIRCUIT COURT FOR THE COUNTY OF HANOVER

A COPY TESTE
FRANK D. HARGROVE, JR. CLERK
HANOVER CIRCUIT COURT
By Rachel Jacobs
DEPUTY CLERK

Cheryl V. Higgins
Cheryl V. Higgins, Chief Judge
Three-Judge Circuit Court



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Case No. CL 16003129-00
VSB Docket No. 15-033-102813

AGREED DISPOSITION
(Admonition)

Pursuant to the Rules of the Virginia Supreme Court Rules of Court Part 6, Section IV, Paragraph 13-6.H., the Virginia State Bar, by Edward L. Davis, Bar Counsel and Joseph Francis Grove ("Respondent"), and Jeffrey H. Geiger, Respondent's counsel, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. At all relevant times, Respondent was licensed to practice law in the Commonwealth of Virginia.
2. On February 16, 1983, Lydell E. Ellerbe ("Complainant") was adjudicated a habitual offender and his driving privileges were revoked. The habitual offender adjudication was based upon three convictions of driving while his license was suspended or revoked between 1977 and 1982.
3. On April 4, 2011, Complainant was convicted of driving while intoxicated, eluding police, and operating after being declared a habitual offender. Among the conditions of his sentence was completion of the Virginia Alcohol and Safety Action Program ("ASAP").
4. On April 9, 2012, Complainant completed the ASAP program.
5. On August 2, 2012, Complainant hired Respondent to petition for the restoration of his driving privileges for a flat fee of \$1,500 plus court costs.
6. Around the time that he hired Respondent, Complainant provided him with his Division of Motor Vehicles ("DMV") Compliance Summary, dated July 18, 2012.
7. Respondent also obtained Complainant's driving record which reflects the April 4, 2011, drunken driving and related convictions.

8. The DMV Compliance summary indicates that Complainant's driving privileges were revoked for two consecutive six-month periods that would end 12 months after he petitioned for the restoration of his driving privileges and after he met several other conditions, such as proof of payment of outstanding fines.
9. Respondent's law clerk prepared a Petition to Restore Driving Privilege ("Petition") that stated, *inter alia*, that Complainant "...was convicted of subsequent offenses in 2011 for which he has successfully completed ASAP." Respondent's law clerk attached the Driving Record and DMV Compliance Summary to the Petition as Exhibits A and B respectfully.
10. Respondent endorsed and mailed the Petition to the Circuit Court for the City of Richmond which filed it on September 4, 2012.
11. By order, entered September 6, 2012, the Circuit Court for the City of Richmond referred Complainant to the Capital Area ASAP Program for an evaluation to assist the court in the consideration of his license restoration.
12. By email, dated September 10, 2012, Respondent's office notified Complainant about the court's order and advised him to take it with him and obtain the evaluation.
13. By letter to the Commonwealth's Attorney, dated September 11, 2012, DMV acknowledged the filing of Complainant's petition, and stated that a review of Complainant's driving record appeared to indicate that Complainant met current statutory requirements to be eligible to petition for restoration of driving privileges under Virginia Code Section 46.2-361(B) of the Habitual Offender Act. The letter stated further that it did not mean that the petition should be granted, only that there appeared to be nothing in Complainant's driving record to make him ineligible to petition the court.
14. The letter also noted that Complainant's license would remain revoked for an additional 12 months after he complied with all outstanding revocations and suspensions as a result of two administrative license suspensions that occurred during the year 2000.
15. The letter mentioned further, "While the Petitioner is eligible to petition for restoration, you may wish to review the driving activity which has taken place subsequent to adjudication."
16. DMV furnished Respondent with a copy of this letter.
17. At a cost of approximately \$200, Complainant completed his evaluation with Capital Area ASAP, which reported its findings to the court by letter, dated November 9, 2012. By this letter, ASAP recommended against the restoration of Complainant's driving privileges, citing the three traffic convictions within the previous three years, including the 2011 drunken driving conviction. In making this recommendation,

ASAP stated that it required an individual not to receive any traffic convictions within the past three years prior to a recommendation of restricted driving privileges, and not within the past five years prior to a recommendation of full driving privileges, and that Complainant did not meet either of those requirements. It closed the letter with a recommendation that the petition be denied until at least three years had elapsed since the last traffic conviction. It also noted that the ASAP report was valid for only 90 days, and that thereafter a subsequent evaluation should be obtained.

18. ASAP furnished a copy of its November 9, 2012, letter to Respondent.
19. By letter, dated November 14, 2012, Respondent filed a Notice of Hearing on Complainant's Petition for December 7, 2012, in the Richmond Circuit Court, and noticed the Commonwealth's Attorney. The Court received and filed the Notice of Hearing on November 19, 2012.
20. Respondent cancelled the hearing, and the Circuit Court for the City of Richmond continued the case generally. Respondent notified Complainant by telephone about his cancellation of the hearing.
21. The court's records reflect that Respondent remained counsel of record in the matter.
22. During the bar's investigation, Respondent told the bar's investigator that he first became aware of Complainant's 2011 drunken driving conviction when he got a copy of the November 9, 2012 correspondence from ASAP. Respondent indicated that although he signed the petition for reinstatement, he missed the fact that Complainant had a drunken driving conviction in 2011 and hadn't reviewed the petition as carefully as he should have.
23. By letter, dated March 11, 2015, Respondent furnished the file to Complainant and terminated the representation, stating,

When you first retain (sic) this office you wanted to have your driving privileges reinstated. You were aware, but did not tell us that you had infractions the year prior, however, you knew that the law required no infractions for three years. In the time it took for us to learn of the infractions we had prepared the petition and were set to file.

You called here in late 2014 wanting to have the reinstatement attempted again. You told us we had done nothing and you that (sic) had paid us. The file enclosed demonstrates the fact that we had the petition prepared and it had to be stopped because you were not forthcoming regarding your infractions of the year before we were retained.
24. Respondent did not seek leave of court to withdraw from the matter, although he was and remains counsel of record, the matter having been continued generally by the circuit court.

II. NATURE OF MISCONDUCT

Such conduct by the Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 1.4 Communication

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

RULE 1.16 Declining Or Terminating Representation

(c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable Rules of Court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.

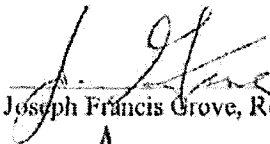
III. PROPOSED DISPOSITION

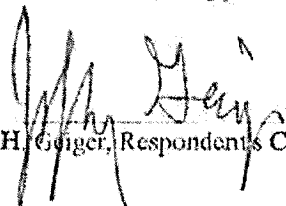
Accordingly, Assistant Bar Counsel and the Respondent tender to the ~~Disciplinary Board~~ ^{Court EJD} for its approval the agreed disposition of an Admonition as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by ~~a panel of the Disciplinary Board~~ ^{the three-judge circuit court EJD}.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee.

THE VIRGINIA STATE BAR

By: 
Edward L. Davis, Bar Counsel


Joseph Francis Grove, Respondent


Jeffrey H. Geiger, Respondent's Counsel