

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
TONJA MICHELLE ROBERTS,

VS. Docket Nos.: 11-090-085747

**ORDER OF REVOCATION**

This matter came to be heard on January 25, 2013, before a panel of the Virginia State Bar Disciplinary Board (the "Board") consisting of Martha JP McQuade, Chair, presiding; R. Lucas Hobbs; Michael S. Mulkey; Whitney G. Saunders; and Robert W. Carter, Lay Member. The Virginia State Bar (the "Bar") was represented by Edward J. Dillon, Assistant Bar Counsel. Tonja Michelle Roberts (the "Respondent") did not appear (the case was called, both in the hearing room and by the Clerk three times in the hallway) and was not represented by Counsel. Valarie L.S. May, Court Reporter with Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804)730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

The Chair opened the proceedings by polling the members of the Board as to whether any of them had any personal or financial interest which would impair, or reasonably could be perceived to impair, his or her ability to be impartial. Each member of the Board, including the Chair, responded in the negative.

**PROCEDURAL BACKGROUND**

This matter came before the Disciplinary Board pursuant to the Ninth District Subcommittee Determination ("Certification"), and upon Notice of Hearing, and a subsequent Pre-Hearing Order, both provided to the Respondent at her last registered address with the Virginia State Bar.

In accordance with rulings made at the Pre-trial Conference on January 16, 2013, which Respondent did not attend, the Bar's Exhibit A, Tabs 1 through 23 were admitted into evidence without objection.

The Bar then called Investigator Albert E. Rhodenizer, Jr. as its first and only witness. Mr. Rhodenizer testified that the Respondent never filed a written response to the Certification or to the Bar's subpoena *duces tecum* (the "Subpoena"), and that he was charged with investigation

of a Complaint to the Bar (the “Bar Complaint”) filed by Margaret B. Foster (the “Complainant”). Mr. Rhodenizer testified at length as to his, and Bar Counsel’s attempts to contact the Respondent with respect to this matter including, but not limited to, the following: the finding of alternate addresses and attempts to reach her that way; telephone calls and emails to the Respondent’s reputed ex-husband; a visit to an office location in South Boston, Virginia where it had been reported that the Respondent had at one point had an office; interviews with other persons officed in or near the building who knew the Respondent; and, as a result of conversations with a former Commonwealth’s Attorney in Danville, Virginia, Mr. Rhodenizer’s having ultimately spoken with the Respondent by phone. During that conversation, she gave him her address and telephone number in Michigan, indicated that she was no longer practicing law, and said that she did not remember anything about her representation of the Complainant.

#### FINDINGS OF FACT

After due deliberation and consideration of the evidence and argument presented, the Board found the following:

1. At all times relevant hereto, the Respondent was an attorney licensed to practice law in the Commonwealth.
2. On or about October 27, 2010, Complainant submitted a complaint to the Bar alleging ethical misconduct by Respondent. That Bar Complaint resulted in the opening of this matter.
3. The Bar Complaint alleged that Complainant retained Respondent to represent her in finalizing a settlement. The Bar Complaint further alleged that Respondent settled the matter, on behalf of Complainant, for approximately \$30,000, but failed to distribute \$11,250 in settlement proceeds to Complainant.
4. By letter dated November 2, 2010 (Exhibit #5), Assistant Bar Counsel Alfred L. Carr mailed a copy of the Bar Complaint to Respondent and requested that Respondent respond to the Bar Complaint within 21 days. The November 2, 2010 letter reminded Respondent of her duty, pursuant to Rule of Professional Conduct 8.1(c), to comply with the Bar’s lawful demands for information not protected from disclosure by Rule of Professional Conduct 1.6.
5. The November 2, 2010 (Exhibit #5) letter was mailed to Respondent at the Roberts Law Office, P.O. Box 10463, Danville, Virginia 24543, which at all relevant times was Respondent’s address of record with the Bar.
6. Respondent did not respond to the Bar Complaint.

7. By letter dated February 3, 2011 (Exhibit #6), Mr. Carr advised Respondent that the Bar Complaint had been referred to the Ninth District Committee of the Virginia State Bar for a more detailed investigation and that a Bar investigator might contact Respondent during the investigation. The February 3, 2011 letter reminded Respondent of her duty, pursuant to Rule of Professional Conduct 8.1(c), to comply with the Virginia State Bar's lawful demands for information not protected from disclosure by Rule of Professional Conduct 1.6.
8. By letter dated June 20, 2011, the Bar requested that Respondent contact its Investigator Mr. Rhodenizer to discuss the allegations contained in the Bar Complaint. The June 20, 2011 letter was mailed to both Respondent's address of record with the Bar and a second address - 125 Meadow Drive, South Boston, VA 24592 (the "South Boston address") where the Bar believed Respondent might have been residing. The South Boston Address is also sometimes shown as 125 Meadow Street, South Boston, Virginia 24592.
9. Mr. Rhodenizer also attempted to contact Respondent by calling two phone numbers, one which he believed was for Respondent's father and one which he believed was for her ex-husband. These attempts were not successful.
10. The Respondent did not respond to the June 20, 2011 letter, or contact Mr. Rhodenizer at that time, or participate in any way in the investigation of the Bar Complaint.
11. On or about October 5, 2011, Mr. Carr served on Respondent, via certified mail to Respondent's address of record with the Virginia State Bar, a subpoena *duces tecum* (the "Subpoena" – Exhibit #10) requiring that Respondent produce by on or before October 26, 2011 documents relating to her representation of Complaint.
12. Respondent failed to respond to the Subpoena.
13. By letter dated October 12, 2011 (Exhibit #11), Mr. Carr advised Respondent that the Ninth District Subcommittee had certified the matter to the Disciplinary Board for hearing. The October 12, 2011 letter was sent to Respondent via certified mail to her address of record with the Virginia State Bar.
14. On or about November 1, 2011, Mr. Carr also sent a letter to Respondent at the South Boston address asking that Respondent contact him to discuss the Complaint that had been filed against her and any concerns she might have about the status of her license to practice law. Respondent did not respond to the letter or otherwise contact Mr. Carr.
15. By letter dated February 29, 2012 (Exhibit #13), Assistant Bar Counsel Edward J. Dillon mailed Respondent a copy of the Subpoena previously served on Respondent and requested that she comply with it by March 12, 2012. This letter

was sent to Respondent at both her address of record with the Bar and the South Boston Address.

16. Respondent did not respond to the February 29, 2012 letter or otherwise comply with the Subpoena.
17. As a result of Respondent's failure to respond to the Bar Complaint, Respondent's Failure to respond to inquiries from Mr. Rhodenizer or otherwise communicate with the Bar, and Respondent's failure to comply with the Subpoena, the Ninth District Committee was unable to gather information from the Respondent pertaining to the Bar Complaint and, more specifically, to the allegation that the Respondent had improperly withheld \$11,250 in settlement proceeds from the Complainant.
18. In addition, since the Respondent's only response to this serious allegation was to tell Mr. Rhodenizer that she was no longer practicing law and could not remember her representation of the Complainant, the credible evidence produced to and/or found by the Bar in support of the Complainant is left unchallenged. This includes but is not limited to the documents obtained by the Complainant from the person who paid the settlement funds in this matter as to the total he had paid, the difference between the amounts collected by Respondent and what was reported by her to the Complainant as having been collected, and the difference between what was collected and what was disbursed, or accounted for, to the Complainant.

#### NATURE OF MISCONDUCT

Accordingly, and by unanimous opinion, the Board found that misconduct by the Respondent had been proven by clear and convincing evidence, and specifically that she had violated the following provisions of the Rules of Professional Conduct:

#### **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 admission or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

#### DISPOSITION

The Board then received Respondent's disciplinary record into evidence, heard argument with respect to mitigation and/or aggravation, and retired for deliberation as to the appropriate sanction to be imposed. Upon reconvening, the Chair announced that the sanction is revocation of Respondent's license to practice law, effective immediately.

Accordingly, it is Ordered that the license of Respondent, Tonja Michelle Roberts, to practice law in the Commonwealth of Virginia should be and is hereby revoked effective January 25, 2013.

It is further Ordered that Respondent must comply with requirements of Part Six, §IV, ¶13-29 of the Rules of the Supreme Court of Virginia. Respondent shall forthwith give notice by certified mail, return receipt requested of the revocation of her license to practice law in the Commonwealth of Virginia to all clients for whom she is currently handling matters and to opposing attorneys and presiding Judges in pending litigation. Respondent shall also make appropriate arrangements for the disposition of matters in her care and in conformity with the wishes of her clients. Respondent shall give such notice within fourteen (14) days of the effective date of this revocation, and make such arrangements as are required herein within forty-five (45) days from the effective date of this revocation. The Respondent shall also furnish proof to the Bar within sixty (60) days of the effective date of this revocation that such notices have been timely given and such arrangements made for the disposition of all client matters.

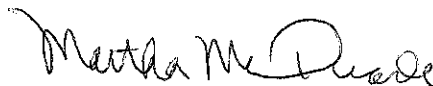
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of this order, Respondent shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangement required by ¶13 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request before a three judge court.

It is further ORDERED that pursuant to Part Six, §IV, ¶13-9e of the Rule 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 Tonja Michelle Roberts at her address of record with the Virginia State Bar, Roberts Law Office, P.O. Box 10463, Danville, VA 24543 by certified mail and by hand delivery to Edward J. Dillon, Assistant Bar Counsel, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, Virginia 23219.

Entered April 22, 2013

VIRGINIA STATE BAR DISCIPLINARY BOARD



Martha JP McQuade, Chair