

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 16th day of April, 2018.

It is ordered that the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, be and the same hereby are amended, effective June 15, 2018.

Amend Section IV, Paragraph 13 of the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court to read as follows:

13. Procedure for Disciplining, Suspending, and Disbarring Attorneys.

13-1. DEFINITIONS

As used in this Paragraph, the following terms shall have the meaning herein stated unless the context clearly requires otherwise:

* * *

“Court Reporter” means a person who is qualified to transcribe proceedings in a Circuit Court.

“CRESPA” See “RESA.”

“Crime” means:

1. Any offense declared to be a felony by federal or state law;
2. Any other offense involving theft, fraud, forgery, extortion, bribery, or perjury;
3. An attempt, solicitation or conspiracy to commit any of the foregoing; or
4. Any of the foregoing found by a foreign jurisdiction.

“Disbarment” has the same meaning as Revocation.

“Disciplinary Proceeding” means any proceeding governed by this Paragraph.

“Disciplinary Record” means any tangible or electronic record of:

1. Any proceeding in which the Respondent has been found guilty of Misconduct, including those proceedings in which (a) the Board’s or Court’s finding of Misconduct has been appealed to this Court; (b) the Respondent’s License has been revoked upon consent to revocation or Respondent has been found guilty of a Crime; or (c) the Respondent has received a sanction pursuant to this Paragraph; and

2. Any proceeding which has been resolved by (a) a *De Minimis* Dismissal; (b) a Dismissal for Exceptional Circumstances; or (c) an Admonition; and
3. Any proceeding in which the Respondent has been found guilty of a violation of CRESPA or RESA; and
4. Any proceeding which resulted in a sanction which created a disciplinary record at the time it was imposed.

“Disciplinary Record” does not include administrative or Impairment Suspensions.

“Disciplinary Rules” means

1. the Virginia Rules of Professional Conduct and Virginia Code of Professional Responsibility, as applicable; and
2. the disciplinary rules of any other jurisdiction applicable under Rule 8.5 of the Virginia Rules of Professional Conduct.

* * *

“Misconduct” means any:

1. Unlawful conduct described in Va. Code § 54.1-3935;
2. Violation of the Disciplinary Rules;
3. Conviction of a Crime;
4. Conviction of any other criminal offense or commission of a deliberately wrongful act that reflects adversely on the Attorney’s honesty, trustworthiness, or fitness as an Attorney; or
5. Violation of RESA or any regulations adopted pursuant thereto.

* * *

“Reinstatement Proceeding” means the proceeding which takes place upon referral from this Court of a Petition for Reinstatement by an Attorney whose License was previously revoked.

“RESA” means Chapter 27.2 of Title 55 of the Code of Virginia entitled “Real Estate Settlement Agents” (formerly “Consumer Real Estate Settlement Protection Act” or “CRESPA”).

“Respondent” means any Attorney:

1. Who is the subject of a Complaint;
2. Who is the subject of any proceeding under this Paragraph, Va. Code §§ 54.1-3900.01, 54.1-3935, 54.1-3936, or RESA; or
3. Who is the subject of an Adjudication of a Crime Proceeding, Proceedings upon Disbarment, Revocation or Suspension in another jurisdiction, Impairment Proceeding, or Reinstatement Proceeding.

* * *

Amend Paragraph 13 to add 13-1.1:

13-1.1. BURDEN OF PROOF

The burden of proof in all Disciplinary Proceedings is clear and convincing evidence.

* * *

Amend Paragraph 13 as follows:

13-6. DISCIPLINARY BOARD

* * *

F. Jurisdiction. The Board shall have jurisdiction to consider: (1) Appeals from Public or Private Reprimands, with or without Terms, or Admonitions, with or without Terms, imposed by District Committees or Dismissals that otherwise create a Disciplinary Record; (2) Complaints and Certifications submitted to it by a Subcommittee or a District Committee; (3) Misconduct by reason of conviction of a Crime; (4) Impairment Proceedings; (5) Revocation or Suspension in another jurisdiction; (6) Petitions from Bar Counsel or the Chair of a District Committee seeking summary Suspension upon a belief that an Attorney is engaging in Misconduct likely to result in injury to or loss of property of a client or other entity or alleging an Attorney poses imminent danger to the public; (7) Petitions for Reinstatement referred to the Board for its recommendation to this Court; (8) Violations of RESA or any regulations adopted pursuant thereto; (9) Failure of Respondent to make a complete transcript part of the Record, as provided in this Paragraph; (10) Failure of an Attorney to comply with an order, summons or subpoena issued in connection with a Disciplinary Proceeding; and (11) Failure of Respondent to fulfill the terms of a Public Reprimand with Terms certified to it by a District Committee for sanction determination.

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13-9. CLERK OF THE DISCIPLINARY SYSTEM

A. Current Dockets. The Clerk of the Disciplinary System shall maintain a docket of current Attorney discipline and RESA matters pending before the District Committees, the Board or courts of this Commonwealth.

B. Records Retention. The Clerk of the Disciplinary System shall retain all Files with respect to any Disciplinary Record for a period of at least five years from the date of the final Order in the Disciplinary Proceeding that created that Disciplinary Record. The Clerk may destroy all other Files upon the expiration of one year after the Dismissal.

C. File Destruction. Whenever a File is destroyed, the following information shall be preserved:

1. The name and Bar identification number of Respondent;
2. The name and last known address of the Complainant;
3. The date the matter was initially received by the Bar;
4. A summary of the Complaint or allegation of Misconduct;
5. The date of the Dismissal or any sanction(s) imposed; and
6. The disposition of the matter, including the basis for Dismissal or the sanction(s) imposed.

Such summary information shall be retained for at least five years whenever the Complaint or allegation of Misconduct is dismissed with no Disciplinary Record having been created, and for at least ten years whenever a Disciplinary Record has been created, an Impairment determined, a Reinstatement Proceeding held or a finding of Misconduct involving a RESA violation is made.

D. Preservation of Determinations and Orders. The Clerk of the Disciplinary System shall preserve a copy of all District Committee Determinations and Board or court orders in which an Attorney has been found to have engaged in Misconduct, to be impaired, to have committed a violation of RESA or requested Reinstatement.

E. Costs. The Clerk of the Disciplinary System shall assess Costs against the Respondent in the following cases:

1. All cases in which a final determination of Misconduct is made by a Subcommittee, District Committee, three-judge Circuit Court, the Board or this Court;
2. All cases against a Respondent who consents to revocation;
3. All proceedings under this Paragraph in which there is a finding that a Respondent has been found guilty of a Crime;
4. All reciprocal cases under this Paragraph in which a final determination imposing discipline is made;
5. All Reinstatement cases under this Paragraph; and
6. All cases before the Board in which sanctions were imposed for violations of RESA and/or the Bar's RESA regulations.

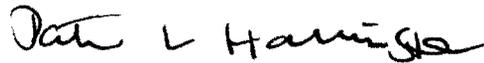
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Clerk