

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
THEODORE SCOTT SILVA, JR.

VSB Docket No.: 12-000-089362

**ORDER AND OPINION**

This matter came before the Virginia State Bar Disciplinary Board ("Board") for hearing on December 9, 2011 upon a Rule to Show Cause and Order of Suspension and Hearing entered November 10, 2011 ("Rule"). A duly convened panel of the Board consisting of Richard J. Colten, Acting Chair, presiding, Robert W. Carter, Laymember, Whitney G. Saunders, Samuel R. Walker and Tyler E. Williams, III, heard the matter. Seth M. Guggenheim, Senior Assistant Bar Counsel, appeared on behalf of the Virginia State Bar ("VSB"). The Respondent, Theodore Scott Silva, Jr., did not appear. The court reporter for the proceeding, Angela R. Sidener, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia, 23227, telephone 804-730-1222, was duly sworn by the Chair.

All legal notices of the date and place were timely sent by the Clerk of Disciplinary System ("Clerk") in the manner prescribed by law. Part Six, §IV, ¶13-24(A) of the Rules of the Supreme Court provides, in relevant part, that following the issuance of a show cause order and order of suspension, the Board shall serve upon the Respondent by certified mail a copy of the Suspension or Revocation Notice, a copy of the Board's order, and a notice fixing the date, time and place of a hearing to determine what action should be taken in response to the Suspension or Revocation Notice. The notice shall state that the purpose of the hearing is to provide Respondent an opportunity to show cause why the same discipline that was imposed in the other jurisdiction should not be imposed by the Board. The Board finds that the VSB has complied with these requirements by forwarding a certified letter dated November 14, 2011 containing the required notices to Respondent's address of record and by forwarding a copy of its letter of November 14, 2011 and its enclosures to the Respondent by certified letter dated November 15, 2011 at a separate address provided by the Respondent.

The case was called by the Chair in the hearing room and by the Clerk in the hallway, outside of the hearing room, three times and the Respondent neither responded nor appeared. The Chair inquired of each member of the panel whether he had any personal or financial interest that would

preclude, or reasonably could be perceived to preclude, his hearing this matter impartially. Each member and the Chair answered in the negative.

The Board entertained an opening statement from the VSB. The VSB introduced a copy of the Rule and its attached copy of a certified order of the District of Columbia Court of Appeals decided September 8, 2011, suspending Respondent from the practice of law in the District of Columbia for three years subject to the requirement that he demonstrate his fitness to resume the practice of law as a condition of his reinstatement.

After due deliberation, the Board finds that Respondent has failed to prove by clear and convincing evidence that (1) the record of the proceeding in the District of Columbia Court of Appeals clearly shows that such proceeding was so lacking in notice or opportunity to be heard as to constitute a denial of due process; (2) the imposition by the Board of the same discipline upon the same proof would result in a grave injustice; or (3) the same conduct would not be grounds for disciplinary action for the same discipline in Virginia. Part 6, §IV, ¶13-24(F).

Upon consideration of the matters before this panel of the Board, it is hereby ORDERED that, pursuant to Part 6, §IV, ¶13-24(G) of the Rules of Supreme Court of Virginia, the license of Respondent to practice law in the Commonwealth of Virginia shall be, and is hereby SUSPENDED effective November 10, 2011 for a period of three years subject to the requirement that he demonstrate that he has been reinstated as a member in good standing of the Bar of the District of Columbia prior to his eligibility for reinstatement as a member of the Virginia State Bar.

It is FURTHER ORDERED that, as directed in the Board's December 9, 2011 Summary Order in this matter, a copy of which was served on Respondent by certified mail, Respondent must comply with the requirements of Part 6, §IV, ¶13-29 of the Rules of the Supreme Court of Virginia. 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 give notice within fourteen (14) days of the effective date of this Order and make such arrangements as are required within forty-five (45) days of the effective date of this Order. The Respondent shall also furnish proof to the VSB within sixty (60) days that such notices have been timely given and such arrangements made for the disposition of such matters.

It is further ordered that if the Respondent is not handling any client matters on the effective date of the revocation, he shall submit an affidavit to that effect to the Clerk. All issues concerning the adequacy of the notice and arrangements required by ¶13-29 shall be determined by the Board.

It is ordered that in accordance with Part Six, §IV, ¶13-9(E) of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against Respondent.

It is further ORDERED that the Clerk shall mail an attested copy of this Opinion and Order to Respondent, Theodore Scott Silva, Jr., by certified mail, at his address of record, Unit B-104, 111 Center Street N, Vienna, Virginia, 22180 and by regular mail to Seth M. Guggenheim, Senior Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803.

SO ORDERED, this 10 day of January, 2012

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: \_\_\_\_\_

  
Richard J. Colten, Acting Chair