

VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
MICHAEL ALAN YODER**

VS B Docket No.: 25-000-135002

MEMORANDUM ORDER OF SUSPENSION

THIS MATTER was heard on April 25, 2025, upon the Virginia State Bar’s Notice of Show Cause Hearing for Failure to Comply with Part Six, § IV, ¶ 13-29 of the Rules of the Supreme Court of Virginia issued on March 21 and April 10, 2025, and the Rule to Show Cause and Pre-Hearing Order on March 25 and 27 and April 10, 2025. This matter was heard before a panel of the Virginia State Bar Disciplinary Board (“Board”) consisting of David J. Gogal, Chair, Stephanie G. Cox, Melanie A. Friend, Michael C. Moore, and Samuel Massenberg, Lay member.

The Virginia State Bar was represented by Richard W. Johnson, Jr, Assistant Bar Counsel (“Bar Counsel”). Respondent filed an Answer to the pleadings and participated in the pre-hearing conference, however he was not present and was not represented by counsel on April 25, 2025. In the early morning hours of April 25, 2025, Respondent sent an email to the Clerk’s office with a motion attached asking to appear remotely for the show cause hearing stating that an unforeseen illness prevented him from appearing in person. Prior to the start of the hearing, that motion was granted. The Clerk sent notice to Respondent’s email address advising him that his motion to appear remotely was granted and providing the link to Microsoft TEAMS with instructions for attending the hearing remotely. The Clerk reported that the email sent to Respondent showed that it had been received and read by 9:30 a.m. The Clerk also attempted to call the Respondent’s phone several times without reaching Respondent. Respondent did not respond to these communications from the Clerk nor appear anytime during the hearing, either remotely or in person. At 9:45 a.m., the Clerk called Respondent's name three times in the adjacent hall with no response. The Chair polled the members of the Board 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 and the Chair responded in the negative. Beverly S. Horne, court reporter, P.O. Box 1975, Mechanicsville, Virginia 23116, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by law.

Part Six, § IV, ¶ 13-29 of the Rules of the Supreme Court (“Rules”) sets forth the duties of a disbarred or suspended Respondent as follows:

13-29.A Duties After Suspension or Revocation. After a Suspension against a Respondent is imposed by either a Summary Order or Memorandum Order and no stay of the Suspension has been granted by this Court, or after a Revocation against a Respondent is imposed by either a Summary Order or Memorandum Order, Respondent must forthwith give notice, by certified mail, of his or her Revocation or Suspension to all clients for whom he or she is currently handling matters and to all opposing Attorneys and the presiding Judges in pending litigation. The Respondent must also make appropriate arrangements for the disposition of matters then in his or her care in conformity with the wishes of his or her clients. The Respondent must give such notice immediately and in no event later than 14 days of the effective date of the Revocation or Suspension, and make such arrangements as are required herein as soon as is practicable and in no event later than 45 days of the effective date of the Revocation or Suspension. The Respondent must also furnish proof to the Clerk within 60 days of the effective date of the Revocation or Suspension that such notices have been timely given and such arrangements have been made for the disposition of matters. The Board must decide all issues concerning the adequacy of the notice and arrangements required herein. The burden of proof is on the Respondent to show compliance. If the Respondent fails to show compliance, the Board may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph 13-29.

In this proceeding, the Respondent bears the burden of showing, by clear and convincing evidence, that he has complied with the requirements of ¶ 13-29, and if he has not complied, why his license to practice law in Virginia should not be further suspended or revoked.

PROCEDURAL BACKGROUND

By an Agreed Disposition Memorandum Order of a Three-Judge Panel of the Arlington County Circuit Court in VSB Docket Nos. 23-041-127923 and 24-041-129679, entered on September 9, 2024 (the “Prior Order”), the Respondent was found, by clear and convincing evidence, to have engaged in misconduct, specifically violating Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), and 1.15 (a),(b),(c), and (d) (safekeeping property). In the Prior Order, the Three-Judge Panel issued a six-month suspension of Respondent’s license to practice law in the Commonwealth of Virginia with several Terms imposed on Respondent. It was further ordered that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules.

PROCEEDINGS AND FINDINGS OF FACT

The Board admitted VSB exhibits 1-3 without objection. Respondent did not appear in person or by counsel and did not present any evidence or argument. The Board heard testimony from one witness, Bar Investigator Matthew Foley. The Board considered the exhibits admitted, the testimony of the witness, and the argument of Bar Counsel. The Board then recessed to deliberate in private.

The Board makes the following findings of fact by clear and convincing evidence:

1. At all times relevant hereto the Respondent was an active member of the Virginia State Bar not in good standing.
2. An Agreed Disposition Memorandum Order was entered on September 9, 2024 by a Three-Judge Panel of the Arlington County Circuit Court in VSB Docket Nos. 23-041-127923 and 24-041-129679, which imposed a six-month suspension of Respondent’s license to practice law with Terms effective September 11, 2024. It was further ordered

that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules regarding duties of a suspended Respondent and, if Respondent is not handling any client matters as of the effective date of the Suspension, he shall submit an affidavit to the Clerk of the Disciplinary System of the VSB to that effect within 60 days.

3. Respondent failed to furnish proof to the Clerk within 60 days of the effective date of the suspension that the notices required by ¶ 13-29 of the Rules had been timely given and such arrangements had been made for the disposition of client matters, In the alternative, Respondent failed to submit an affidavit to the Clerk within 60 days of suspension that he was not handling any client matters on the effective date. The effective date of the suspension was September 11, 2024. (VSB Exhibit 2.)
4. No such proof of compliance had been filed by the Respondent as of the date of the hearing on April 25, 2025.

The Board finds that Respondent failed to prove by clear and convincing evidence that he had complied with the requirements of Part Six, § IV, ¶ 13-29 of the Rules regarding duties of a suspended Respondent as ordered.

SANCTIONS

After announcing its findings as to the violation, the Board then heard evidence and argument of Bar Counsel as to Sanctions. The VSB presented the certification of the Respondent's prior disciplinary record which consisted of one prior violation, that being the September 11, 2024 suspension with Terms issued by the Arlington County Circuit Court in VSB Docket Nos. 23-041-127923 and 24-041-129679. No other evidence was presented. Bar Counsel argued that a six-month suspension of Respondent's license to practice law was appropriate.

The Board then recessed to deliberate in private as to the appropriate sanction. The Board considered the ABA Standards for imposing lawyer discipline. In aggravation, the Board considered Respondent's prior disciplinary matter, his lack of cooperation by failing to comply with the Rules and prior Order of the Arlington County Circuit Court, and his failure to acknowledge the wrongful nature of the violation. There was no mitigation presented during the hearing for the Board to consider.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is suspended for ninety (90) days, effective April 25, 2025.

It is further ORDERED that, as directed in the Board's April 25, 2025, Summary Order in this matter, Respondent must comply with the requirements of Part Six, § 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 suspension 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 also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk of the Virginia State Bar within 60 days of the effective day of the suspension. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by

the Virginia State Bar Disciplinary Board, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13-9 E. 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 2300 Wilson Blvd. Suite 700, Arlington, Virginia 22201, by certified mail, return receipt requested, and a copy by electronic mail to Richard W. Johnson, Jr., Assistant Bar Counsel,.

ENTERED this 7th day of May, 2025

VIRGINIA STATE BAR DISCIPLINARY BOARD



David J. Gogal, Chair

	<p>A COPY TESTE Joanne "Jo" Fronfelter  Clerk of the Disciplinary System Virginia State Bar</p>
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