

VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
MICHAEL ALAN YODER**

VS B Docket No.: 25-000-135000

MEMORANDUM ORDER OF DISMISSAL

THIS MATTER was heard on April 25, 2025, on the Rule to Show Cause why the alternative sanction of a two-year suspension as provided by Order of a Three-Judge Panel of the Arlington County Circuit Court entered on September 9, 2024, VSB Docket Nos. 23-041-127923 and 24-041-129679, should not be imposed against Respondent Michael Alan Yoder (“Respondent”) for his failure to fulfill the Term ordered by the Court. 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. This matter came before the Board based on the Notice of Show Cause Hearing on Terms Violation dated March 21, 2025, pursuant to Part Six, § IV, ¶ 13-18.O of the Rules of the Virginia Supreme Court (“the Rules”) and the Rule to Show Cause and Pre-Hearing Order of the Board entered March 25, 2025.

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 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, ¶ 13-18.O of the Rules provides, in relevant part, that whenever it appears that a respondent has not complied with a Term imposed in a prior disposition, Bar Counsel shall serve notice requiring such respondent to appear and show cause why the alternative disposition stated in the prior disposition should not be imposed. The burden of proof shall be on such respondent to show compliance by clear and convincing evidence. If the Board finds that such respondent has failed to comply with a Term of the prior disposition, "the alternative disposition shall be imposed."

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, including Term 4 which is the subject of this Rule to Show Cause. Term 4 states as follows:

4) Within thirty (30) days from the date of the Three-Judge Panel approving this Agreed Disposition, Respondent must engage the services of an accountant who is familiar with the requirements of Rule 1.15 of the Rules of Professional Conduct to review Respondent's attorney trust account record-keeping, accounting, and reconciliation methods and procedures to ensure compliance with Rule 1.15 of the Rules of Professional Conduct. Respondent is obliged to pay when due the accountant's fees and costs for services. Upon completion of the accountant's review of Respondent's trust account record-keeping, accounting and reconciliation methods and procedures, but no later than December 11, 2004, Respondent shall certify to Bar Counsel that he has engaged an accountant and has revised his trust accounting methods and procedures based on the accountant's recommendations and requirements of Rule 1.15 of the Rules of Professional Conduct.

The Prior Order further provided that, in the event Respondent failed to comply with the enumerated Terms, Respondent's license to practice law in the Commonwealth of Virginia would be suspended for a period of two years.

PRELIMINARY MATTERS AND EXHIBITS

VSB exhibits 1-6 were admitted without objection. Over Bar Counsel's objection, the Board found good cause to admit as Board's Exhibit 1, a written report from Respondent's accountant, DC8 Financial/Tamara Batts, dated December 2, 2024. This report was submitted by Respondent to the Clerk and Bar Counsel electronically on the morning of the hearing, along with his Motion to Appear Remotely. The objection was that Respondent did not timely file the exhibit. This late submission by Respondent was in response to Bar Counsel's April 23, 2025 filing of a Response to Respondent's Answer, which brought into question the existence of the accountant's December 2, 2024 written report. The Board found this report to be a critical piece of evidence directly relevant to whether or not Respondent had complied with Term 4 of the Court's order of suspension. The Board learned, through testimony of the VSB witness Matthew Foley, Bar

Investigator, that Bar Counsel was aware of the report's existence as early as December 13, 2024. Mr. Foley sent an email to Bar Counsel after his brief phone conversation with Respondent's accountant, Tamara Batts, in December of 2024, advising that Ms. Batts had prepared a written report outlining the work she had done for Respondent regarding Term 4 of the suspension Order. The Bar failed to request, collect or review a copy of the accountant's report before filing the Notice of Show Cause for violating Term 4 of the suspension Order, or at any time before the hearing. Julie Palmer, Respondent's counsel for the underlying disciplinary matter, sent Bar Counsel proof of Respondent's compliance with Terms by email on December 11, 2024. Bar Counsel asked for, and promptly received, the contact information for Respondent's accountant. Ms. Palmer asked Bar Counsel to let her know if he needed any additional information from Respondent regarding his compliance. (See Exhibits A and B attached to VSB Response to Respondent's Answer filed April 23, 2025.) Other than the accountant's contact information, no other information was requested. At the hearing, Bar Counsel argued in closing that the accountant's report bolstered their position regarding a violation of Terms under ¶ 13-18.O, therefore there can be no claim of prejudice to the Bar in admitting this report. Given the nature and content of the accountant's report, the alleged Term violation involved, and the VSB's prior knowledge of its existence, good cause was shown and the report was admitted as Board's Exhibit 1.

PROCEEDINGS AND FINDINGS OF FACT

During the hearing 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. Respondent did not appear and did not present additional evidence or argument. 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.
3. A specific term of the Prior Order was that Respondent hire an accountant within 30 days who is familiar with the requirements of Rule 1.15 of the Rules of Professional Conduct to review his trust account record-keeping, accounting, and reconciliation methods and procedures to ensure compliance with Rule 1.15 of the Rules of Professional Conduct. Upon completion of the accountant's review but no later than December 11, 2004, Respondent was to certify to Bar Counsel that he has engaged an accountant and has revised his trust accounting methods and procedures based on the accountant's recommendations and requirements of Rule 1.15 of the Rules of Professional Conduct. If the Respondent did not meet this term by the deadline, the Disciplinary Board would impose a two-year suspension of his license to practice law in the Commonwealth of Virginia pursuant to Part Six, § IV, ¶ 13-18.O of the Rules.
4. Tamara Batts, Owner and Head Accountant of DC8 Financial was hired by Respondent to comply with the requirements of Term 4 of the Prior Order. On December 2, 2024, Ms. Batts prepared a written report for Respondent of her review, findings and recommendations in accordance with Rule 1.15 of the Rules of Professional Conduct. (Board Exhibit 1.)

5. Respondent filed his Certification of Terms with the Bar on December 9, 2024 showing his compliance with the terms of the Prior Order, including Term 4. (VSB Exhibit 4.) This was also communicated to Bar Counsel through an email from Julie Palmer, Respondent's counsel for the underlying disciplinary matter, on December 11, 2024.
6. Upon request of Bar Counsel, Ms. Palmer and Respondent provided the contact information for his accountant by email on December 11, 2025.
7. Bar Counsel tasked Matthew Foley, Bar Investigator, with making a brief inquiry to verify that Respondent's chosen accountant, Tamara Batts, Owner and Head Accountant of DC8 Financial, was a real person, was an accountant, and was familiar with Rule 1.15 of the Rules of Professional Conduct. Mr. Foley spoke with Ms. Batts by phone and confirmed this information. On December 13, 2024, Mr. Foley sent an email to Bar Counsel with this information and advised him that Ms. Batts said she had prepared a written report of the accounting services she performed for the Respondent.
8. No evidence was presented at the hearing to rebut Respondent's timely filed Certification of Compliance with Term 4 of the prior order.

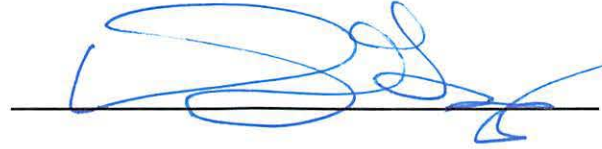
The Board finds by clear and convincing evidence that Respondent has complied with the Term 4 of the Prior Order.

Accordingly, it is ORDERED that the Rule to Show Cause for Violation of Terms pursuant to Part Six, § IV, ¶ 13-18.O is dismissed.

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

