

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF JEFFREY BRIAN BAILEY

VSB DOCKET NO. 24-000-131893

**MEMORANDUM ORDER FOR IMPOSITION OF ALTERNATIVE
SANCTION OF EIGHTEEN-MONTH LICENSE SUSPENSION**

THIS MATTER came on to be heard on August 23, 2024, before a panel of the Disciplinary Board consisting of Jennifer D. Royer, Esquire, Chair, Stephanie G. Cox, Esquire, Mary Beth Nash, Esquire, Reiss F. Wilks, Esquire, and Alan S. Anderson, Lay Member. The Virginia State Bar (the "VSB") was represented by Renu M. Brennan, Bar Counsel. Jeffrey Brian Bailey (the "Respondent") appeared in person and was represented by Jeffrey H. Geiger, Respondent's Counsel. 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 responded in the negative. Jennifer L. Thomas, Chandler and Halasz, court reporter, P.O. Box 1975 Mechanicsville, Virginia, (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 the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18 of the Rules of the Supreme Court of Virginia.

The matter came before the Board on a Rule to Show Cause Order for Respondent to Show Cause as to why he had not complied with the terms of the November 4, 2020, Order approving an Agreed Disposition for a six-month suspension with terms (hereinafter "Order"). This proceeding was brought by the VSB pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18 (O). Prior to the proceedings and at the final Pretrial Conference VSB Exhibits 1-6 were admitted into evidence by the Chair, without objection from the

Respondent. During the hearing, Respondent moved into evidence an agreement between Virginia JLAP dated 16 July 2024 which was admitted as Respondent Exhibit 1.

The Board heard testimony from the following witnesses, who were sworn under oath: Jeffery Brian Bailey and Barbara Mardigian. The Board considered the exhibits introduced by the parties; heard arguments of counsel; and met in private to consider its decision.

SCOPE OF THE HEARING

The Board convened a hearing pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18(O) to determine whether an alternative sanction of an eighteen-month suspension should be imposed on Respondent for failure to comply with the terms of the Order. Rule 13-18 (O) reads, in pertinent part, **“Enforcement of Terms. In all cases where Terms are included in the disposition, the Board must specify the time period within which compliance must be completed and, if required, the time period within which the Respondent must deliver a written certification of compliance to Bar Counsel. The Board must specify the alternative disposition if the Terms are not complied with or, if required, compliance is not certified to Bar Counsel.”**

The Order required the Respondent to comply with five terms, and the VSB stipulated that Respondent complied with terms 1,4, and 5 as set forth in the Order. Only compliance with terms 2¹ and 3² were the subject of this Show Cause proceeding.

¹ As set forth in the Order, Term 2 provided: Not later than thirty (30) days from the date of entry of the Disciplinary Board Order approving this Agreed Disposition the Respondent shall fully participate in an evaluation conducted by Virginia Judges and Lawyers Assistance Program ("JLAP") and shall implement all of JLAP's recommendations. The Respondent shall enter into a written contract with JLAP for a minimum period of one (1) year and shall comply with the terms of such contract, including, inter alia, personally meeting with JLAP and its professionals, as directed. The Respondent authorizes JLAP to provide periodic reports to the Office of Bar Counsel stating whether the Respondent is in compliance with JLAP's contract with the Respondent. The Office of Bar Counsel shall be bound by JLAP's contract with the Respondent with respect to confidentiality and disclosure of information.

² As set forth in the Order, Term 3 provided: Within one (1) year from the date of entry of the Disciplinary Board Order approving this Agreed Disposition, Respondent shall enroll and attend six (6) hours of continuing legal education (CLE) in the substantive area of trust account management and/or procedures which hours shall not be credited toward Respondent's compliance with his annual mandatory CLE requirement. Upon completion of this Term, Respondent shall so

FINDINGS OF FACT

The Board makes the following findings of fact based on clear and convincing evidence: Respondent was licensed to practice law in the Commonwealth on October 12, 2012. In 2020, following investigation of a Complaint filed with the VSB, disciplinary proceedings were instituted against Respondent. The Order was the result of an Agreed Disposition, with terms and Respondent agrees that he endorsed the Order, signifying his concurrence with the terms.

Respondent was not an active member of the VSB at the time of his August 23, 2024, hearing. After several administrative suspensions, on January 20, 2023, his license was forfeited pursuant to Section 54.1-3914 of the *Code of Virginia*. The Order was the result of an Agreed Disposition with terms, and Respondent endorsed the Order, signifying his concurrence with the terms.

Respondent was evaluated by the former director of JLAP, Jim Leffler, on or about December 7, 2020; however, Respondent failed to enter into a JLAP contract at that time. Respondent did not have any further contact with JLAP until 2024, and he did not sign a Rehabilitation and Monitoring Agreement until July 16, 2024. As of the August 23, 2024, hearing, Respondent has been compliant with the terms of the JLAP agreement, including attending counseling sessions, treating with a psychiatrist, testing negative on drug and alcohol screens, and meeting with the JLAP director. Respondent is taking medications as prescribed by his treating psychiatrist to facilitate his recovery and well-being.³

Respondent completed 25.5 CLE hours, but he has not completed the six hours of trust accounting CLEs required pursuant to Term 3 of the Order.

Respondent testified that there had not been any barriers to his compliance with the terms of the Order.

certify in writing to Laura Ann Booberg, Assistant Bar Counsel.

³ Respondent testified that after entry of the Order, he has suffered from alcohol and drug dependency, which he now receives medication and counselling through JLAP.

Since entry of the Order in 2020, Respondent has not practiced law. Respondent has been a stay-at-home parent, a substitute teacher in the Chesterfield County Public Schools, a business growth adviser for a realty company, and has performed document review as a paralegal. Respondent received some treatment with mental health professionals during this time, but he did not have any consistent, on-going treatment until 2024.

Respondent contacted the VSB about reinstatement in April 2024 because he had worked hard for his law license and wanted to “get [his] feet wet” by engaging in document review for other lawyers. When asked if he was prepared to return to the practice of law representing clients, Respondent testified that he was not ready to return to the private practice of law. If reinstated, his intent was to continue working with firms performing document review.

Finally, Paragraph 13-18(O) imposes on VSB Counsel a responsibility for “monitoring compliance and reporting any noncompliance to the Board.” In this instance, VSB Counsel failed to monitor the status of Respondent’s compliance with the Order. Although such failure by the VSB does not obviate Respondent’s duty to comply with the terms of the Order, the Board would be remiss if it did not admonish the VSB to correct any internal operating deficiencies that led to the failure to monitor compliance with the Order.

IMPOSITION OF SANCTION

Following receipt of the evidence, the Board received argument regarding whether Respondent had complied with the terms of the Order. The Board then recessed to deliberate.

After due deliberation, the Board reconvened to announce its findings. The Chair commended Respondent for his efforts to address his personal and professional challenges and begin the rehabilitative process with JLAP. However, the Chair further announced the Board had determined that Respondent failed to show by clear and convincing evidence that he had complied with Terms 2 and 3 of the Order and imposed the Alternative Sanction of an 18-month suspension of Respondent’s law license.

Accordingly, it is ORDERED that the Respondent's law license be suspended for eighteen months, as required by the alternate sanction set forth in the Summary Order, effective August 23, 2024.

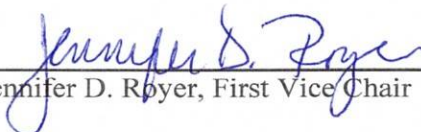
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of August 23, 2024, then he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days of the effective day of the Summary Order. The Board shall decide all issues concerning the adequacy of the notice and arrangements required herein. The burden of proof shall be 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 subparagraph 13-29.

It is further ORDERED that pursuant to Part 6, Section IV, Paragraph 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 an attested copy of this Order be mailed by the Clerk of the Disciplinary System to the Respondent by electronic, first-class and certified mail, return receipt requested, to Respondent's address of record with the Virginia State Bar, being P.O. Box 1681, Midlothian, Virginia 23113-1681, and a copy by electronic mail to Jeffrey H. Geiger, Respondent's Counsel, and to Renu M. Brennan, Bar Counsel.

ENTERED this 20th day of December, 2024.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Jennifer D. Royer, First Vice Chair