VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
CLYDE HOLLAND PERDUE, III

VSB DOCKET NO. 25-090-135044

MEMORANDUM ORDER OF SUSPENSION

THIS MATTER came on to be heard on April 23-24, 2026, before a panel of the Disciplinary Board ("the Board") consisting of Jennifer D. Royer, Chair (the "Chair"), Carolyn V. Grady, Michael Moore, David R. Tiller, and Dr. Theodore Smith, Lay Member. The Virginia State Bar (the "Bar" or "VSB") was represented by Edward Dillon, Deputy Bar Counsel, Respondent Clyde Holland Perdue, III (the "Respondent"), appeared in person and was represented by John E. Lichtenstein, Jacob B. Lichtenstein, and Gregory L. Lyons. Jennifer L. Thomas, court reporter, Chandler and Halasz, P.O. Box 1975, Richmond, Virginia 23116, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from adjudicating this matter fairly and impartially. Each member responded in the negative.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (the "Clerk") in the manner prescribed by the Part Six, § IV, ¶ 13-18 of the Rules of the Supreme Court of Virginia ("Rules").

This matter came before the Board on the District Committee Determination for Certification by the Ninth District Subcommittee, pursuant to Part Six, § IV, ¶ 13-18 of the Rules, involving misconduct charges against the Respondent. Prior to the proceedings and at the final pre-hearing conference VSB Exhibits 1 through 6, 8-18, 20-26, 33-34, 36-38, 41-45, 47-49 were admitted without objection. VSB Exhibits 7, 19a, 27-32, 35, 39-40, 46, and 50 were admitted over

the Respondent's objection. The Chair sustained Respondent's objections to VSB Exhibits 21, 22, 38, and 41. Respondent's Exhibits 1 through 7, 9 through 11, and 15 through 17, were admitted into evidence by the Chair. The Chair sustained the Bar's objection to Respondent's Exhibit 8.

During the proceedings, VSB Exhibit 56 was admitted without objection. Respondent's Exhibits 12 through 14 were admitted without objection, and Respondent's Exhibits 18 and 20 were admitted over objection from the Bar. Respondent's Exhibit 19 was not offered at the proceeding. Prior to the hearing, the parties entered into Stipulations of Fact, and those Stipulations were admitted into evidence at the hearing as Board Exhibit 1.

The Board heard testimony from witnesses, all of whom were sworn under oath. Complainant Lindsey Coley, Clerk of the Franklin County Circuit Court Teresa Brown, Valerie Denning, and Michael Whitlow, Esquire testified on behalf of the Bar. The Respondent testified and also called Laura Gall to testify. The Board considered the exhibits introduced, heard arguments, and recessed in private to consider its decision as to whether the Bar proved misconduct by clear and convincing evidence. Thereafter, the Board made the following findings of fact, which were established by clear and convincing evidence:

FINDINGS OF FACT[1]

1. Respondent was admitted to the Bar in 2011. At all relevant times, Respondent was a member of the Bar.
2. In or about 2024, Respondent represented Valerie Venning ("Venning") in regard to her claim to an elective share of the Estate of Selby G. Venning, III (the "Estate"), who died in January 2024. Lindsey A. Coley, Esquire ("Coley"), represented the Estate.

[1] The Board's finding of facts include the stipulations of the parties as stated in Board Exhibit 1 and findings of the Board based upon clear and convincing evidence presented at the hearing.

3. On February 21, 2024, Respondent filed, on behalf of Venning, an elective share claim in Franklin County Circuit Court.

4. Virginia Code § 64.2-308.12(B) required Venning to file a complaint to determine her elective share of the Estate no later than six months after the February 21, 2024, filing of her elective share claim. Accordingly, the statutory deadline for filing a complaint to determine Venning's elective share of the Estate was August 21, 2024.

5. Respondent did not file a complaint to determine Venning's elective share of the Estate on or before August 21, 2024.

6. By letter dated September 17, 2024, to the Commissioner of Accounts for Franklin County, Coley requested a determination that Venning's elective share claim was not valid because no complaint seeking to determine her elective share had been filed.

7. Coley's letter to the Commissioner of Accounts triggered Respondent to prepare Venning's complaint to determine her elective share (the "Elective Share Complaint").

8. On September 20, 2024, Respondent appeared at the Franklin County Circuit Court Clerk's Office and spoke with Teresa Brown, Clerk of the Franklin County Circuit Court ("Brown"). Respondent asked Brown if she could backdate a filing. Brown replied, "absolutely not." Respondent then asked her if she could "act like a filing came into the office but had been sitting on a desk" without being stamped as filed. Brown told Respondent that she could not do anything like that. Respondent then told Brown that he would "think about it" and left her office.

9. The Board found Brown's testimony to be credible. Brown had a longstanding personal relationship with Respondent. Brown testified that she had known Respondent since he was a baby, and Respondent testified that he had even taken Brown's daughter to

Homecoming as a teen. The Board found that Brown had no reason to contrive this encounter to provide false testimony against Respondent.

10. Respondent denied that the conversation occurred. The Board found that Respondent, who personally stood to benefit from backdating the filing date to reflect that the Elective Share Complaint was filed within the statutory period, was not credible.

11. The following Monday, September 23, 2024, Respondent hand-delivered the Elective Share Complaint directly to Brown[2] along with the filing fee payment. Brown entered the filing fee into the Court's financial management system, which automatically generated a case filing date in the online case management system. The system-generated receipt bears Brown's initials, indicating that she conducted the financial transaction. Brown then gave the Elective Share Complaint to a deputy clerk to complete the intake process. The deputy clerk stamped the last page of the Elective Share Complaint and handwrote the filing date of September 23, 2024, directly on the document.

12. Respondent filed the Elective Share Complaint more than a month after the expiration of the statute of limitations. The Elective Share Complaint also erroneously cited to and relied upon Virginia Code §§64.2-300 and 64.2-302, which were only applicable to the elective share of a surviving spouse of a decedent who died before January 1, 2017.

13. The copy of the Elective Share Complaint that Coley received in the mail contained a stamp from the Franklin County Circuit Court Clerk's Office reflecting that it had been filed on September 23, 2024, and a certificate of service signed by Respondent, falsely indicating that Respondent mailed and emailed it to Coley on September 20, 2024 (the

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[2] Respondent delivered the Elective Share Complaint and filing fee directly to Brown, who did not ordinarily enter Complaints into the Clerk's file management system, even though there were deputy clerks in the office who could have handled the transaction.

"False Certificate of Service").

14. By email to Coley dated October 1, 2024, the Commissioner of Accounts replied to Coley's September 17, 2024, letter and stated that the Franklin County Circuit Court records showed that the Elective Share Complaint was filed on August 20, 2024, which was one day prior to the expiration of the statute of limitations.

15. Sometime between September 23, 2024, and October 1, 2024, someone fraudulently changed the online case management system to reflect that the Elective Share Complaint had been filed on August 20, 2024.

16. On October 7, 2024, Coley filed a Plea of the Statute of Limitations and Answer to the Elective Share Complaint (the "Plea") on behalf of the Estate, asserting that Respondent filed the Elective Share Complaint more than six months after the filing of the elective share claim, and Venning's elective share claim was time barred.

17. Respondent did not provide Venning with copies of the pleadings in her case or explain the status to her unless she asked for information, so Venning tracked the status of her case through the online case management system. Upon seeing an entry in the case management system for the Plea, Venning reached out to Respondent for an explanation.

18. During a telephone call with the Respondent, Respondent advised Venning not to worry about the Plea but never advised her that the Elective Share Complaint could be dismissed as time barred. Instead, Respondent informed Venning that Coley had agreed to toll the statute of limitations while they attempted to reach an agreement between Venning and the Estate as to the value of Venning's elective share, but that agreement to toll the statute of limitations was not in writing.

19. Coley denied agreeing to toll the statute of limitations while the parties worked to establish the value of the Estate, stating that she would have expected Respondent to file a complaint, and the Board found her testimony to be credible.

20. Between October 7, 2024, and October 29, 2024, Laura Gall ("Gall"), a newly hired employee in Respondent's firm, was tasked with preparing a response to the Plea. Gall conducted legal research on equitable tolling for statutes of limitation and prepared a draft response to the Plea for Respondent's signature.

21. Respondent made edits on a paper copy of the draft response to the Plea by hand, and Gall entered those corrections on the online copy of the pleading as directed, saving over the original draft each time she made edits. No one saved the paper copies of the draft response to the Plea on which the corrections had been made.

22. Gall forwarded copies of the draft response to the Plea to the Commissioner of Accounts, Coley, and Venning.

23. The draft Response to Plea contained the following paragraph:

> 44. On August 20, 2024, [Respondent], filed a Complaint to protect [Venning's] rightful share. A copy of the Complaint is attached hereto as <u>Exhibit AC</u>. A copy of the screen shot showing the initial filing date is attached hereto as <u>Exhibit AD</u>. This was within the Statute of Limitations. ("Paragraph 44.")

24. Paragraph 44 was false. The Elective Share Complaint was not filed on August 20, 2024.

25. Exhibit AC, which was attached to the draft response to Plea, was also not a copy of the Elective Share Complaint that had been filed with the Circuit Court. Exhibit AC reflected a case number that was typed onto the document instead of the handwritten case number, that had been written by the deputy clerk on the original document. Additionally, Exhibit AC had changes to formatting, capitalization, and punctuation that were different from the

Elective Share Complaint that had been filed with the Circuit Court. Finally, Exhibit AC did not contain a copy of the False Certificate of Service.

26. Exhibit AD, which was also attached to the draft response to Plea, was a print-out of the case entries from the Officer of the Court Remote Access system ("OCRA"), reflecting the fraudulent filing date of August 20, 2024. Exhibit AD was demonstrably false as Exhibit AC had been stamped by the Clerk's Office and bore the filing date of September 23, 2024.

27. On October 29, 2024, Respondent personally filed the Response to Plea of Statute of Limitations and Leave to Amend Complaint (the "Response to Plea") in the Elective Share case. This pleading contained the false Paragraph 44, Exhibit AC, and Exhibit AD. Prior to filing the Response to Plea, Respondent signed the pleading.

28. On October 31, 2024, local attorney Will Davis requested to see the court's file in the Elective Share case. After reviewing the file, he advised a deputy clerk that the filing date reflected in the online case management system was wrong. The deputy clerk advised Brown.

29. In reviewing the file, Brown recalled that she had personally entered the Elective Share Complaint into the Court's financial management system and knew that the date shown on the online system was wrong.

30. Brown was devastated that the Court's records were wrong, viewing the incorrect records as a reflection on her and her office's integrity.

31. Brown corrected the online record to accurately reflect the filing date of September 23, 2024. Brown notified Franklin County Circuit Court Judge Timothy W. Allen (Judge Allen") of the error in the online case management system record. She contacted the Office of the Executive Secretary of the Supreme Court, inquired as to whether they could trace

the entries to determine who had changed the date, and was informed that the Supreme Court did not track such changes.

32. The online record could be changed by anyone with access to the online case management system, including the deputy clerks in her office, the court's judicial assistant, and Brown.

33. Brown also contacted the Virginia State Police and requested an investigation into the record change. The Virginia State Police conducted interviews and performed an investigation, but it was unable to determine who had changed the online case management system records as of the date of the Board hearing.

34. No evidence was presented to demonstrate that Respondent had access to the Court's online case management system or that he had changed the court's records.

35. On November 1, 2024, Coley met with Brown. Brown told Coley that Respondent filed the Elective Share Complaint on September 23, 2024, and that she recalled Respondent asking her on September 20, 2024, if a filing could be backdated. Brown also told Coley that she had corrected the Franklin County Circuit Court's online docket for the Elective Share case to show the September 23, 2024, filing date for the Complaint and provided Coley with copies of the online docket for the Elective Share case both before and after the filing date for the Elective Share Complaint had been corrected.

36. On November 4, 2024, Judge Allen recused himself from the Elective Share case because Brown was a potential witness in that case. Judge William D. Broadhurst was later designated by the Supreme Court of Virginia to hear the Elective Share case.[3]

37. In the Response to Requests for Admission dated November 21, 2024, which were prepared by Respondent, Venning admitted (1) that the elective share claim was filed pursuant to

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[3] Judge Broadhurst subsequently filed the first of two Bar complaints against Respondent in this matter.

Virginia Code § 64.2-308.12; (2) that August 21, 2024, was six months after the filing of Venning's elective share claim; and (3) that the Elective Share Complaint was filed on September 23, 2024.

38. In Answers to Interrogatories dated November 21, 2024, which Respondent drafted and Venning signed, Venning stated:

> 2. Identify the date on which the Complaint to determine the Elective Share was filed in the Franklin County Circuit Court Clerk's Office.
>
> **ANSWER: I was under the impression that we were awaiting an answer and documents from Lindsey Coley's office to finalize the workbook to reach a settlement offer. We had prepared the Complaint in August but filed it in September because we were being ignored and denied a response. I never knew, and they never told me, they were no longer willing to offer settlement outside of Court. If we had known, this would have been filed in August.**

39. The answer to Interrogatory No. 2, which stated that the Respondent "prepared the Complaint in August but filed it in September," was false as both the Respondent and Venning testified that until Coley's letter to the Commissioner of Accounts dated September 17, 2024, they believed that the parties were working toward settlement. Respondent further testified that it was Coley's September 17, 2024, letter to the Commissioner of Accounts that triggered him to draft the Elective Share Complaint.

40. On December 10, 2024, Respondent filed a Motion for Voluntary Nonsuit in the Elective Share case.

41. On December 11, 2024, Coley filed a Counterclaim Complaint for Declaratory Judgment in the Elective Share case on behalf of the Estate (the "Counterclaim").

42. Following a hearing on December 11, 2024, Judge Broadhurst denied the Motion for Voluntary Nonsuit. The Order denying the Motion for Voluntary Nonsuit was entered on January 6, 2025.

43. On December 17, 2024, Respondent filed a Motion to Reconsider the denial of the Motion for Voluntary Nonsuit.

44. On January 2, 2025, Respondent filed a Continuing Objection to the Court's Denial of the Plaintiff's Request for Voluntary Nonsuit and an Answer to the Counterclaim for Declaratory Relief. In that pleading, Respondent admitted the allegations contained in paragraph 14 of the Estate's Counterclaim, which stated, "On September 23, 2024, Mrs. Venning filed a Complaint to determine the elective share. A copy of the Complaint is attached hereto as Exhibit D."

45. Even though (i) Respondent submitted responses to written discovery in which Venning admitted that the Elective Share Complaint was filed on September 23, 2024 and not on August 20, 2024, and (ii) Respondent admitted the allegations contained in paragraph 14 of the Estate's Counterclaim, Respondent did not withdraw or amend the Response to Plea and/or withdraw or amend Exhibit AD to the Response to Plea, both of which reflected that the Elective Share Complaint was filed on August 20, 2024.

46. Because Respondent admitted that the Elective Share Complaint was filed on September 23, 2024, in discovery and admitted the allegations contained in paragraph 14 of the Counterclaim, he did not believe it was necessary to correct or amend the pleadings filed with the Circuit Court that falsely stated that the Elective Share Complaint had been filed on August 20, 2024, or to withdraw his argument that the Elective Share Complaint had been filed within the statutory period.

47. On January 20, 2025, Coley sent Respondent a letter in which she advised Respondent that his Response to Plea contained statements in Paragraph 44 and Exhibit AD that were false and that violated Virginia Code § 8.01-271.1 (the "Safe Harbor Letter").

48. Despite receiving the Safe Harbor Letter, Respondent took no action to correct or amend the Response to Plea.

49. On January 24, 2025, Coley filed a Motion for Sanctions on behalf of the Estate, seeking a monetary sanction against Venning and Respondent. The motion was assigned a separate case number: CL24-6026-02 (the "Sanctions Case").

50. The Motion for Sanctions contained the following allegations:

> 16. Mrs. Venning's Response to the Plea of Statute of Limitations included a statement which Mrs. Venning and her counsel, C. Holland Perdue, III, Esq., knew to be false, but her counsel signed it anyway and filed it with this Court.
>
> 17. Mrs. Venning's Response attached as an exhibit a document which Mrs. Venning and her counsel, C. Holland Perdue, III, Esq., knew to be false, but still attached it as an exhibit to a pleading and filed it with this court.

51. Respondent did not advise Venning that the Motion for Sanctions had been filed against her personally. Venning learned of the Motion for Sanctions from the online docket for the Elective Share case, which she had been actively monitoring. When Venning contacted Respondent about the Motion for Sanctions, he advised her not to worry about it because Coley was "only going after him." Respondent did not inform Venning that the Court could order her to pay monetary sanctions to the Estate.

52. By Opinion and Order entered January 29, 2025, Judge Broadhurst denied Respondent's Motion to Reconsider the denial of the motion for voluntary nonsuit, granted a Motion for Protective Order filed on behalf of the Estate, and set the Motion for Sanctions for hearing in March of 2025.

53. On February 28, 2025, Respondent filed a Pleading of Disputed Facts for Tolling Statute of Limitations.

54. On March 12, 2025, Respondent filed a Second Motion for Reconsideration regarding the denial of the motion for voluntary nonsuit. In that pleading, Respondent made specific reference to the pending Motion for Sanctions but did not correct or amend the Response to Plea.

55. By Opinion and Order entered March 14, 2025, Judge Broadhurst denied the Second Motion for Reconsideration.

56. Respondent did not, in any of the pleadings he filed in the Elective Share case after filing the Response to Plea, inform Judge Broadhurst that the Response to Plea contained a false statement and false evidence regarding the filing date of the Elective Share Complaint. Respondent also did not inform Judge Broadhurst that he believed the false statement and false evidence regarding the filing date of the Elective Share Complaint contained in the Response to Plea resulted from errors made by his staff.

57. Respondent admitted to the VSB Investigator that he did not inform the Franklin County Circuit Court that the Response to Plea included false information about the filing date of the Elective Share Complaint.

58. On March 17, 2025, Respondent called Venning and told her he was referring her to another attorney, Michael S. Whitlow ("Whitlow"). He told her that Whitlow would explain the reasons why.

59. Venning, who was confused by pleadings that cited to an August 20, 2024, filing date, made multiple requests for a copy of the August 20, 2024, pleading. On March 17, 2025, Venning went to Respondent's office, and while there, asked him when the Elective Share Complaint was filed. Respondent confirmed the Elective Share Complaint was filed on September 23, 2024. In explaining his failure to file the Elective Share Complaint on time,

Respondent was flippant with Venning, telling her, "That's what malpractice insurance is for."

60. By Order entered March 18, 2025, the Franklin County Circuit Court substituted Whitlow as counsel for Venning in the Elective Share case. The Order stated: "This order does not relieve C. Holland Perdue, III from any responsibility or obligation related to or arising from the pending Motion for Sanctions in this matter."

61. Venning learned that the Motion for Sanctions had been filed against her personally for the first time from Whitlow, and Whitlow worked with Coley to achieve dismissal of Venning from the Sanctions Case.

62. On March 21, 2025, Judge Broadhurst filed a Bar complaint against Respondent, specifically raising concerns that Respondent filed the Response to Plea, which contained "a seemingly false allegation of filing date, which was buttressed by a concocted exhibit in support."

63. On April 15, 2025, Coley filed a Bar complaint against Respondent.

64. On April 26, 2025, Respondent, who is also the mayor of Rocky Mount, posted on social media that a "sanctions hearing has been scheduled regarding my work as an attorney in a case from the fall of 2024." Respondent's post also stated: "Unfortunately, it is no secret that political leadership often comes with targeted attacks."

65. Respondent testified during the Board hearing that the reference to "targeted attacks" was directed to a newspaper article that Respondent expected to be published in the *Roanoke Times* the following day; however, the text of the post retracting his April 26, 2025, social media post stated, "After further consideration, I do not believe that Motion for Sanctions

to have been politically motivated, but rather based on factual statements included in the pleading I filed, which were incorrect."

66. The retraction post implicitly acknowledged that the first social media post related to "targeted attacks" was in reference to Coley's action in filing the Motion for Sanctions on behalf of her client, not to any expected media coverage of the motion. As such, the Board did not find Respondent's testimony that the April 26, 2025, social media post was intended to be directed to a prospective *Roanoke Times* article instead of at Coley to be credible.

67. In his written response to the Bar complaint dated April 29, 2025, Respondent stated, the "[i]nitial investigation in this matter indicates that a staff member in [Respondent's] office mistakenly included the subject Paragraph 44 in the Response.... this Paragraph 44 was clearly an error" and that a staff member "inserted Paragraph 44 into the pleading after [Respondent] had reviewed a final draft of the pleading which did not include Paragraph 44[.]"

68. Respondent further stated that "Exhibit AD came about as a result of [the staff member] seeing a screen shot which was part of an overall download of all pleadings and orders related to the ongoing litigation[.]"

69. Respondent's April 29, 2025, response to the Bar complaint was the first time since filing the Response to Plea on October 29, 2024, that Respondent blamed a staff member for the false statement and false evidence that Respondent had personally filed with the Court.

70. By Agreed Order entered on May 23, 2025, the Franklin County Circuit Court dismissed the Elective Share Complaint in the Elective Share case after Whitlow agreed, on behalf of Venning, that the Elective Share Complaint was time barred.

71. Whitlow testified in the Board hearing that Respondent's arguments on the tolling of the statute of limitations were "without merit."

72. By Agreed Dismissal Order entered June 24, 2025, the Franklin County Circuit Court dismissed Venning as a party from the Sanctions Case.

73. Respondent and his law firm entered into a Settlement Agreement with the Estate to resolve the Sanctions Case. Respondent, while making no admissions of fact and denying liability to the Estate, agreed to make a $50,000 settlement payment to the Estate.

74. As part of the Settlement Agreement, Respondent also agreed to retract his April 26, 2025, Facebook post by issuing the following statement:

> As indicated in my Facebook post on April 26, 2025, a Motion for Sanctions was filed against me in a matter pending in Franklin County Circuit Court. After further consideration, I do not believe that Motion for Sanctions to have been politically motivated, but rather based on factual statements included in a pleading I filed, which were incorrect. The Motion has been resolved to the mutual satisfaction of the parties.

75. By Agreed Order in the Sanctions Case entered July 7, 2025, the Franklin County Circuit Court dismissed the Motion for Sanctions with prejudice based on the Settlement Agreement.

76. Respondent testified that he entered into the Settlement Agreement, that he paid the settlement payment to the Estate from his own funds, and that he fought, through his attorney, to have Venning removed from the Sanctions Case, in part, to show that he accepted responsibility for his actions in the Elective Share case.

77. The Board, however, did not find this testimony credible because Respondent did not settle the Sanctions Case from January 24, 2025, through July 7, 2025, despite his knowledge that he filed false information and false evidence with the Franklin County Circuit Court without taking remedial measures to correct such filings; Respondent fought with Coley as

to the appropriate resolution of the Motion for Sanctions over a period of months, which required Coley to spend significant additional time negotiating a resolution to the Motion for Sanctions; Respondent failed to inform Venning that the Motion for Sanctions was filed against her, leaving it to Whitlow to explain the motion; and Respondent expressly disclaimed any liability for his actions in the Elective Share case when entering into the Settlement Agreement with the Estate.

78. In July of 2025, Whitlow filed an admitted spouse complaint in Franklin County Circuit Court in relation to the Estate. The case was assigned case number CL25-6506-00. Through that case, Venning received payments from the Estate for her allowances.

79. Coley testified that Venning had stood to receive an estimated $200,000-$300,000 from the Estate for her elective share had the Elective Share Complaint been timely filed. Instead, Venning received nothing for her elective share.

80. In an August 13, 2025, interview with the VSB Investigator, Respondent confirmed that he signed the Response to Plea in the Elective Share case but stated, in part, "This document I did not read before signing[.]" Respondent stated that Gall changed Paragraph 44 of the Response to Plea after Respondent reviewed it; and that he subsequently signed and filed the Response to Plea with the Franklin County Circuit Court without reading it.

81. In an August 20, 2025, interview with the VSB Investigator, Gall admitted that she, along with Respondent's sister, worked on portions of the Response to Plea but stated that she had no recollection of Paragraph 44 and that she did not recall preparing Paragraph 44 or inserting it into the Response to Plea. Gall also stated that Respondent would be mistaken if he stated that Gall inserted Paragraph 44 and Exhibit AD into the Response to Plea.

82. Gall further stated that Respondent's attorney questioned her about Paragraph 44 and that, at the request of Respondent's attorney, she executed an affidavit ("Gall Affidavit"). Gall admitted to the VSB Investigator that she may have sent the draft response to the Plea out before it was "thoroughly reviewed and signed."

83. The Gall Affidavit, which was executed on March 27, 2025, stated, in part, that she "made numerous edits to the drafts [of the Response to Plea] as directed. When instructed to send a copy to [the Commissioner of Accounts] for review and comment, I misheard/misunderstood the directive and sent the wrong version to [the Commissioner of Accounts], Lindsey Coley, and Valerie Venning, including a copy of the letter to which I had applied the signature stamp, and copies of all the proposed exhibits."

84. The unsigned copy of the draft response to the Plea sent to the Commissioner of Accounts, Coley, and Venning contained the same version of Paragraph 44 that was submitted to the Franklin County Circuit Court.

85. Respondent testified that the error that Gall made in sending the draft Response to Plea was that she was directed to send it only to the Commissioner of Accounts, whom Respondent considered to be a mentor, for his comment on the tone of the pleading, which he perceived to take a harsh tone toward Coley, rather than to send the draft pleading to the Commissioner of Accounts, Coley, and Venning. Once the draft was sent to the Commissioner of Accounts, Coley, and Venning, however, Respondent signed the Response to Plea and filed it with the Court.

86. During the Board hearing, Gall testified in direct conflict with the Gall Affidavit and her interview statements to the VSB Investigator on August 20, 2025.[4]

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[4] Gall also testified that she felt intimidated by the VSB Investigator, whom she asserts tried to bully her, so she said whatever she needed to say to him to end the interview and get him off the telephone. The VSB Investigator submits

87. Contrary to her statement to the VSB Investigator, Gall testified that she was the person who drafted and inserted Paragraph 44 and attached Exhibit AD to the Response to Plea. Gall testified that while working on the Response to Plea, she found the "golden ticket," which was a reference to Exhibit AD that contained the false filing date of August 20, 2024. Gall testified that when she found Exhibit AD, she remarked, "Cool beans! Yay! That's the answer right there; we didn't violate the statute of limitations." Gall testified that upon finding this "golden ticket," she told no one, but instead proceeded to draft and insert Paragraph 44, attach Exhibit AD, and publish these documents without Respondent's knowledge or consent.

88. Gall's testimony was not credible. To credit Gall's testimony, the Board would have to believe that (i) Gall, during her first weeks of work with a new employer with whom she was attempting to prove her bona fides, discovered a critical piece of evidence that would defeat the Plea in the Elective Share case; (ii) told no one else in the office about her discovery; (iii) drafted and inserted a paragraph into the Response to the Plea alleging that the Elective Share case was timely filed and attaching the critical piece of evidence to the Response to Plea as an exhibit; (iv) submitted the revised pleading for Respondent's signature without telling anyone, including Respondent, about the changes; and (v) despite her testimony that she took these steps in an attempt to "prove" herself to her new employer, did nothing to bring the discovery to Respondent's attention to get affirmation or recognition of her work. The Board could not and did not find such explanation to be credible.

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testimony and evidence to the Board as a routine part of his job duties, and the Board found Gall's characterization of the VSB Investigator to be wholly inconsistent with its own observations of the VSB Investigator.

89. Gall also testified in response to questions from the Board that she entered Paragraph 44 into the Response to Plea *after* Respondent had signed the final version, but she changed her testimony during redirect by counsel.

90. Upon learning that Gall purportedly altered the Response to Plea after Respondent had approved it and that the altered pleading was false, Respondent (i) did nothing to bring the matter to the Court's attention or to take corrective action to fix Gall's error with the Court, and (iii) did nothing to correct, discipline, or provide necessary training to Gall. Respondent only reassigned Gall to projects with different responsibilities within the office. Respondent's failure to take any corrective action in the face of such sanctionable conduct, further cast doubt on the validity and credibility of both Gall's and Respondent's testimony.

II. NATURE OF MISCONDUCT

The following conduct by Respondent was found by clear and convincing evidence to constitute misconduct in violation of the Rules of Professional Conduct:

RULE 1.1 Competence

> A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

During closing arguments, Respondent, through his counsel, stipulated to a violation of Rule 1.1. Additionally, the Board found by clear and convincing evidence that Respondent violated Rule 1.1 by (i) filing the Elective Share Complaint outside the statutory period; (ii) filing the Elective Share Complaint with citations to inapplicable, superseded statutes; (iii) failing to timely advise Venning that her Elective Share Complaint was filed outside the statutory period

and may be time barred; and (iv) taking on the representation of Venning's Elective Share case when he was not qualified to do so by training or by experience.

RULE 1.4 Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Respondent violated Rule 1:4(a) by clear and convincing evidence by (i) failing to provide Venning with copies of the pleadings in her case or explaining the status to her such that she had to obtain information about her case from reviewing the online case information system; (ii) failing to timely advise Venning that the Estate had filed the Plea on the basis that Respondent had filed the Elective Share Complaint outside of the statutory period for doing so; (iii) failing to advise Venning at any time prior to withdrawing as her counsel that the Elective Share case might be time barred; (iv) failing to advise Venning that a Motion for Sanctions had been filed against her and that the Court may order her to pay monetary sanctions to the Estate; and (v) failing to advise Venning between January 24, 2025 through March 17, 2025, that his continued representation of her would constitute a conflict of interest for him.

Respondent violated Rule 1:4(b) by clear and convincing evidence by (i) falsely telling Venning that Coley had agreed to toll the statute of limitations; (ii) failing to tell Venning at any time prior to withdrawing as her counsel that her Elective Share case might be time barred; (iii) not advising Venning about the false statements and evidence contained in the Response to Plea, including the text of Paragraph 44 and Exhibit AD; (iv) failing to advise her that she was a named party to the Motion for Sanctions and could be ordered by the Court to pay monetary sanctions to the Estate; (v) responding to her confusion about the filing date of her Elective Share Complaint

by telling her "that's what malpractice insurance is for;" and (vi) failing to explain to her that he had a conflict of interest that necessitated his withdrawal from the Elective Share case, choosing instead to tell her simply that Whitlow would be taking over as her counsel and that he would explain it to her.

RULE 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly:

(1) Make a false statement of fact or law to a tribunal;

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(4) Offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

Respondent violated Rule 3.3(a)(1) by clear and convincing evidence by (i) filing the Response to Plea with the Franklin County Circuit Court which falsely alleged that the Elective Share Complaint was filed on August 20, 2024, one day before the expiration of the statutory filing period, when Respondent knew that he actually filed it on September 23, 2024; and (ii) attaching Exhibit AD to his Response to Plea, knowing that Exhibit AD contained a manipulated date that benefitted the Respondent in his effort to correct his intentional late filing of the Elective Share Complaint.

In particular, the Board finds that the following evidence demonstrates by clear and convincing evidence that Respondent's violation of Rule 3.3(a)(1) was a knowing, instead of inadvertent or unintentional, violation: (i) Respondent's testimony that he intentionally missed filing the Elective Share Complaint during the statutory filing period during what he perceived to be settlement communications with Coley; (ii) Respondent's September 20, 2025, conversation with Brown asking if she would backdate a pleading; (iii) Respondent's denial of his conversation with Brown, despite knowing that testifying against him created a personal hardship for Brown

given her long and personal relationship to Respondent (Brown having testified to knowing Respondent since he was a baby and Respondent's testimony that he took Brown's daughter to homecoming as a teen); (iv) the text of the Response to Plea itself, which contained a false filing date and exhibit and Respondent's signature on the Response to Plea; and (v) Respondent's disregard for the Safe Harbor Letter from Coley advising Respondent that the pleading contained false statements in violation of Virginia Code § 8.01-271.1.

After conclusion of its deliberations, but prior to the Board delivering its ruling on misconduct, Respondent, through his attorney, stipulated to a violation of Rule 3.3(a)(4). The Board also found that Respondent violated Rule 3.3(a)(4) by clear and convincing evidence by failing to notify the Franklin County Circuit Court of the false material statements of fact and evidence in the Response to Plea after "learning" that Paragraph 44 and Exhibit AD were false, and by taking no remedial action throughout the entirety of the litigation.

The Board specifically finds that the Respondent's discovery responses – including the answer to Interrogatory No. 2 and the responses to the requests for admission – acknowledging the correct filing date of September 23, 2024, did not relieve Respondent of his obligation to inform the Court of the materially false statements in Paragraph 44 and Exhibit AD.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

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(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law[.]

Respondent violated Rule 8.4(b) and (c) by clear and convincing evidence by (i) asking

Brown if she would backdate the filing date of a pleading or otherwise participate in a ruse by claiming that the pleading was filed timely but not entered because it was inadvertently left on a deputy clerk's desk; (ii) blatantly mispresenting the correct filing date in his Response to Plea; (iii) attaching an OCRA printout showing an incorrect, manipulated filing date of August 20, 2024, to the Response to Plea; (iv) failing to notify the Franklin County Circuit Court of the false statement and false evidence included in the Response to Plea; (v) publishing a social media post on April 26, 2025, characterizing Coley's Motion for Sanctions as a targeted political attack against him instead of as a valid pleading substantiated by his own actions in the Elective Share case; and (vi) drafting and submitting Answers to Interrogatories claiming the Elective Share Complaint was prepared in August, 2024, but testifying in the Board hearing that the preparation of the Elective Share Complaint was triggered by Coley's September 17, 2024, letter to the Commissioner of Accounts stating that Venning had not filed a timely complaint.

With respect to the alleged violation of Rule 5.3(c)(1) and (2), because the Board did not find the testimony of either Respondent or Gall as to Gall's and Respondent's actions with respect to drafting paragraph 44 of the Response to Plea to be credible, the Board did not find by clear and convincing evidence that Respondent violated Rule 5.3(c)(1) and (2), and those charges were dismissed.

III. IMPOSITION OF SANCTION

Upon finding the above Rule violations, the Board proceeded to the sanctions phase of the hearing and received further evidence and argument from the parties regarding the imposition of an appropriate sanction. The Board received and admitted Respondent's disciplinary record, which reflected no prior disciplinary history, into evidence as VSB Exhibit 57.

The Bar recalled witnesses Coley, Venning, and Brown, each of whom testified as to the impact Respondent's misconduct had on their personal and professional lives. Coley also testified

to the impact on her clients. Respondent called John McNeil, John Harris, and John Boitnott as character witnesses, each of whom testified that Respondent was an upstanding, well-respected member of the Rocky Mount and greater Franklin County communities, who provided free or low-cost legal services to clients who could not otherwise afford an attorney. Respondent also testified on his own behalf and apologized to Coley, Venning, and Brown for his actions and inactions during his representation of Venning. Respondent did not accept responsibility for the false statements contained in his Response to Plea and, when given an opportunity to do so, refused to acknowledge discussing backdating pleadings with Brown on September 20, 2024.

The Bar sought Revocation of Respondent's license and cited multiple aggravating factors in support, including Respondent's actions after missing the statute of limitations; multiple Rule violations; Respondent's selfish motive; and Respondent's refusal to accept responsibility. The Bar noted the only mitigating factor was Respondent's lack of a prior disciplinary record.

Respondent presented the following mitigating factors: Respondent's misconduct as an aberration of his practice; his lack of a disciplinary record after approximately 16 years of practicing law; that he is a young, hardworking lawyer of reputable character with strong ties to his local community; his willingness to provide free or low-cost legal services to clients who could not pay his legal fees; and the lack of a selfish motive.

The Board recessed to deliberate what sanction to impose upon its findings of misconduct by Respondent.

The Board was guided in its deliberations by Standard 4.52, Standard 4.62, Standard 6.12, and Standard 7.2 of the Annotated Standards for Imposing Lawyer Sanctions, 2nd Edition (ABA 2019).

Standard 4.52 provides that Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he is not competent and causes injury or potential injury to the client. Respondent was not competent in the area of estate litigation involving the elective shares of an augmented estate in that he missed the statutory filing deadline in the Elective Share case and relied on statutes that had been amended or superseded in 2017. By Coley's

testimony, Respondent's lack of competence in this area of the law caused or potentially caused Venning to lose $200,000-$300,000 of the augmented estate.

Standard 4.62 provides that Suspension is generally appropriate when a lawyer knowingly deceives a client and causes injury or potential injury to the client. Respondent deceived Venning as to Coley's alleged agreement to toll the statute of limitations in the Elective Share case, as to the fact that her Elective Share Complaint was not filed within the statutory period and was likely time barred at the time it was filed, and as to the fact that she was a named party in the Motion for Sanctions and could have been ordered by the Court to pay monetary sanctions to the Estate. Venning was injured by Respondent's deceit in that it compromised her ability to pursue her Elective Share case, and she was potentially injured in that she could have been ordered to pay sanctions to the Estate but for Whitlow's efforts to have her dismissed from the Sanctions Case.

Standard 6.12 provides, in relevant part, that Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court and takes no remedial action and causes injury or potential injury to a party to the legal proceeding or causes an adverse or potentially adverse effect on the legal proceeding. Respondent submitted the Response to Plea, which contained false statements in Paragraph 44 and false evidence in the form of Exhibit AD, to the Franklin County Circuit Court. Respondent failed to take any remedial action to advise the Court of the falsity of the information contained within the pleading, to withdraw the pleading, or to amend the pleading. As a result of Respondent's lack of candor, the parties invested unnecessary time and resources into preparing and responding to discovery and briefs, which had an adverse impact on both parties to the proceeding.

Standard 7.2 provides that Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system. Respondent asked the Clerk of the Franklin County Circuit Court whether she would backdate a pleading filed with her office; and upon being told, "absolutely not," he asked her if she would pretend that the pleading had been received by her office but left on a desk without being file-stamped and entered into the online case

management system – all under the circumstances of having missed the filing deadline for the Elective Share case. Respondent also made a social media post in which he stated that Coley's Motion for Sanctions was filed as a targeted political attack against him as a political leader instead of having been filed for a proper purpose in the pursuit of her client's interests. Respondent also lied to his client regarding Coley's agreement to toll the statute of limitations, failed to inform her of the effect of filing the Elective Share Complaint outside of the statutory period, and failed to inform her that she was subject to being ordered to pay monetary sanctions to the Estate because Respondent filed a pleading with the Court that contained false statements and false evidence. Respondent's actions cast aspersion on the legal profession, on the Clerk of Court, and on his colleague and also eliminated his client's ability to fight for her elective share of her deceased husband's augmented estate, which had an estimated value of $200,000-$300,000.

The Board was persuaded by the following aggravating factors:

(a) Dishonest or selfish motive. Respondent's actions after missing the statute of limitations were more about self-preservation than protecting his client's interests. Respondent was more interested in minimizing harm to himself and in how his misconduct would be perceived by the public than in providing competent, professional legal services to his client.

(b) Multiple Offenses. Although the Respondent had no prior disciplinary record, his repeated violations of the Rules in this proceeding demonstrated that his conduct was not a single lapse or error. This pattern of behavior showed a disregard for the Respondent's ethical obligations towards his client and the Franklin County Circuit Court.

(c) Submission of False or Deceptive Testimony. Respondent's testimony was not credible. While the Respondent acknowledged his mistake in failing to file the Elective Share Complaint within the statutory period during the Board hearing, he framed his error as an intentional, strategic choice at the time it was made. Respondent's testimony concerning his conversation with Brown on September 20, 2024; his testimony regarding the creation and submission of Paragraph 44 and Exhibit AD to the Franklin County Circuit Court; his testimony regarding his conversation with Venning concerning Coley's alleged agreement to toll of the statute of limitations; and his

testimony concerning when the Elective Share Complaint was actually prepared all support this Board's finding that Respondent's testimony was false and deceptive.

(d) Respondent's refusal to acknowledge his wrongful behavior. While Respondent acknowledged some wrongful conduct through stipulations of fact and last-minute stipulations of violations of Rule 1.1 and 3.3(a)(4), he refused to recognize or acknowledge the full scope of the misconduct in which he engaged. Respondent also repeatedly rationalized or minimized his misconduct by claiming everyone knew the proper filing date of the Elective Share Complaint as though it excused him from taking any remedial action to correct such misrepresentations with the Court. Despite paying the Estate $50,000, which represented a large portion of the Estate's attorneys' fees that were incurred because of Respondent's misconduct, Respondent also expressly disclaimed wrongdoing or liability in the Settlement Agreement.

(e) Substantial experience in the practice of law. As an attorney with approximately 16 years of practice, Respondent had substantial experience in the practice of law.

The Board considered the following evidence as mitigating factors:

(a) Absence of prior disciplinary record. Respondent has no prior disciplinary record.

(b) Character or reputation. Respondent presented favorable character evidence from local attorneys who provide Respondent with mentoring or otherwise have a mentor-like effect on his practice. Respondent enjoys a favorable reputation within his local legal community and has a record of participation in local civic and political activities, as well as community service, and provides free or low-cost representation to clients who cannot afford to pay his legal fees.

(c) Remorse. Respondent, while not admitting to any deceitful or dishonest acts, did offer qualified remorse to the witnesses, stating that he "hates that we're here" and that he "hates that we're here together," rather than a full, unconditional acceptance of responsibility, but the Board did provide some limited weight to Respondent's evidence of remorse.

After due deliberation, the Board reconvened in open session and announced the sanction as follows:

It is **ORDERED** that Respondent's license to practice law in the Commonwealth of Virginia is **Suspended for Three Years**, effective April 24, 2026.

It is further **ORDERED** that, as directed in the Board's Summary Order in this matter, the Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules. Respondent must forthwith give notice by certified mail 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. Respondent must also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. Respondent must give such notice immediately, and in no event later than fourteen (14) days of the effective date of the Suspension, and make such arrangements as are required herein as soon as is practicable and in no event later than forty-five (45) days of the effective date of the Suspension. The Respondent must also furnish proof to the Clerk within sixty (60) days of the effective date of the Suspension that such notices have been timely given and such arrangements have been made for the disposition of matters.

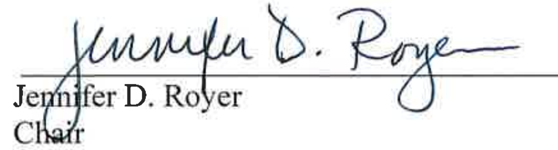
It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the Suspension, he shall submit an affidavit to that effect within sixty (60) days of the effective date of the Suspension to the Clerk. The Board must decide all issues concerning the adequacy 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 Six, § IV, ¶ 13-9 E. of the Rules of the Supreme Court of Virginia, the Clerk shall assess all costs against the Respondent.

It is further **ORDERED** that an attested copy of this Order be mailed by the Clerk to the Respondent by electronic, first-class and certified mail, return receipt requested to his address of record with the Virginia State Bar, being Clyde Holland Perdue, III, Raine & Perdue, PLC, 245 S.

Main Street, Rocky Mount, VA 24151, and a copy by electronic mail to John E. Lichtenstein, Respondent's Counsel, and a copy by electronic mail to Edward J. Dillon, Deputy Bar Counsel.

ENTERED THIS 11th DAY OF JUNE, 2026.
VIRGINIA STATE BAR DISCIPLINARY BOARD



Jennifer D. Royer
Chair