

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
ALFRED LINCOLN ROBERTSON, JR.

VSB DOCKET NO. 22-042-125695

**ORDER FOR IMPOSITION OF ALTERNATIVE SANCTION  
OF TWELVE MONTHS LICENSE SUSPENSION**

**THIS MATTER** came on to be heard on Friday, August 26, 2022, before a panel of the Disciplinary Board consisting of Chair Designate Carolyn V. Grady, James L. Banks, Jr., John D. Whittington, John A. C. Keith, and Nancy L. Bloom, lay member. The Virginia State Bar (the "VSB") was represented by Renu M. Brennan, Bar Counsel. The Respondent was present in person with his counsel, Timothy J. Battle, Esq. 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. Hairfield, court reporter, Chandler and Halasz, P.O. Box 9349, Richmond, VA 23227, Tel. No. 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 Court.

The matter came before the Board on the District Committee Certification for Sanction Determination by the Fourth District Section II Committee pursuant to Part 6, Section IV, Paragraph 13-15 F. of the Rules of the Supreme Court of Virginia involving failure to comply with terms imposed by a Subcommittee and on Part 6, Section IV, Paragraph 13-20 of the Rules of the Supreme Court of Virginia involving Board Proceedings Upon Certification for Sanction Determination.

## **I. Scope of the Hearing**

Pursuant to the terms of Part 6, Section IV, Paragraph 13-20 B. of the Rules of the Supreme Court of Virginia, this matter was required to be heard on the record consisting of the Public Reprimand with Terms issued by the Subcommittee, the transcript of the District Committee show cause hearing, and the Certification for Sanction Determination. The only evidence to be permitted in the Board hearing is of mitigation and aggravation. Part 6, Section IV, Paragraph 13-20 C.

## **II. History of Proceedings**

The following proceedings are reflected in the record presented to the Board:

On May 18, 2016, Respondent appeared *pro se* before the Fourth District Subcommittee Section II and entered into an agreed disposition of disciplinary charges against him resulting in a Public Reprimand with Terms. The case involved two separate incidents in which the Respondent failed to act diligently and communicate adequately with his clients in immigration matters. The Subcommittee found violations of Rule 1.3(a) Diligence; Rule 1.4(a) Communication; and Rule 8.1(c) Bar Admission and Disciplinary Matters. The Respondent agreed to a Public Reprimand with Terms as follows:

1. Respondent shall timely respond to any and all complaints filed against him with the bar that are sent to him with a demand that he so respond.
2. Respondent shall not commit a violation of any of the Rules of Professional Conduct set forth above. A violation of this term shall occur if a finding is made by a disciplinary tribunal that Respondent has violated RPC 1.3(a), 1.4(a) or 8.1(c), and that the violation occurred within five (5) years from the date of this Agreed Disposition.

The Subcommittee Agreed Disposition added the following alternative sanction: "If the terms are violated within the time specified, pursuant to Part 6, §IV, ¶13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required

to show cause why a Suspension of his license to practice law for a period of twelve (12) months should not be imposed.”

On June 25, 2021, the Virginia State Bar Disciplinary Board heard another matter involving misconduct by the Respondent upon a Certification from the Fifth District Subcommittee. VSB Docket No. 19-051-116059. This matter arose from notification from the Court of Appeals of Virginia to the VSB, that Respondent was counsel of record in three criminal appeals that had been dismissed on procedural default grounds. Two of these matters occurred in 2010 and 2011, and thus were before the 5-year period specified in the terms agreed to in the Agreed Disposition in 2016. The third default, however, involved a case in which the appeal was dismissed for failure to file a petition for appeal in 2019. The Disciplinary Board found violations of RPCs 1.3(a) and (b); 1.4(a), (b) and (c); and 8.1(c) and imposed a sanction of license suspension for one year and one day.

On May 4, 2022, Bar Counsel issued a Notice of Show Cause Hearing by letter to Mr. Robertson. By this notice, Respondent was required to appear on June 30, 2022, before the Fourth District Committee to show cause why the alternative sanction of a one-year suspension contained in the Subcommittee Determination Public Reprimand with Terms dated May 31, 2016, should not be imposed for failure to comply with Term 2.

The Fourth District Section II Committee held a Show Cause hearing on June 30, 2022, the transcript of which was part of the record presented to the Board. The District Committee overruled a Plea in Bar filed by Respondent, considered the exhibits offered in evidence, heard testimony from the Respondent and argument of counsel. Upon the District Committee’s finding that the Respondent had failed to establish by clear and convincing evidence that he had complied with the terms of the Public Reprimand with Terms, the District Committee certified the matter to the Virginia State Bar Disciplinary Board for imposition of the alternative disposition set out therein – suspension of the Respondent’s license to practice law in the Commonwealth of Virginia for a period of 12 months.

### **III. Proceedings Before Disciplinary Board**

Bar Counsel and counsel for the Respondent presented arguments on aggravating and mitigating factors on the basis of the record before the Board. No live testimony was presented. Bar Counsel cited the ABA Standards for Imposing Lawyer Discipline – Aggravating Factors -- prior disciplinary offenses, pattern of misconduct, and multiple offenses – all as supporting imposition of the alternative sanction. Bar Counsel also presented the Board with cases in support of the argument that the alternative sanction should be imposed. In response, counsel for the Respondent cited absence of a dishonest or selfish motive, character and reputation as factors to be considered in mitigation. Significantly, counsel for Respondent admitted that there was, within five years, a violation of the Rules of Professional Conduct specified in the Terms imposed with the Public Reprimand. Counsel for Respondent argued repeatedly, and inexplicably, that the one year and one day suspension imposed by the Board in 2021 was intended to include and/or run consecutively with the twelve-month alternative sanction agreed to in 2016, and that the alternative sanction from 2016 had “already been served.” The basis for this argument apparently was that in presenting argument in the sanction phase of the 2021 hearing, Bar Counsel referred to the Respondent’s prior disciplinary record which included the 2016 Public Reprimand with Terms. The Respondent’s prior disciplinary record was appropriately before the Board when VSB Docket No. 19-051-116059 was heard in 2021. The Panel retired to deliberate.

### **IV. Imposition of Sanction**

After recess for deliberation the Panel returned, and the Chair announced that based on the Panel’s consideration of the record and of the evidence in aggravation and mitigation and argument of counsel, the Board imposes the Alternative Sanction of a twelve-month suspension

of the Respondent's license to practice law in the Commonwealth of Virginia effective August 26, 2022; and it is so ORDERED.

It is further ORDERED that, as directed in the Board's August 26, 2022, Summary Order in this matter, Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, of the twelve-month 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 immediately and in no event later than 14 days of the effective date of the August 26, 2022, ruling, 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 August 26, 2022, ruling. The Respondent shall also furnish proof to the Clerk of the Disciplinary System of the Virginia State Bar within 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 August 26, 2022, Respondent 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 August 26, 2022, license suspension. 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. The Board may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of Paragraph 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 the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent by certified mail, return receipt requested, to his last address of record with the Virginia State Bar: Robertson Law Offices, PLLC, 6575 Edsall Road, Springfield, VA 22151; and a copy by regular mail to Respondent's Counsel, Timothy Joseph Battle, Esq. at Office of Timothy J. Battle, PO Box 320593, Alexandria VA 22320-4593 and a copy by electronic mail to Renu M. Brennan, Bar Counsel.

ENTERED this 12<sup>th</sup> day of September, 2022.

VIRGINIA STATE BAR DISCIPLINARY BOARD

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Carolyn V. Grady, Chair Designate