

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF JOHN VENA, II
VSB DOCKET NO.: 22-051-124531**

MEMORANDUM ORDER OF SUSPENSION

This matter came on to be heard on April 28, 2023, and May 19, 2023, before a panel of the Virginia State Bar Disciplinary Board (the “Board”) consisting of Kamala H. Lannetti, presiding, First Vice Chair (“Chair”); Reba H Davis, Lay Member; Alison G. M. Martin; Samuel Walker and John D Whittington. The Virginia State Bar (the “VSB”) was represented by Renu M. Brennan, Bar Counsel (“Bar Counsel”). John Vena, II (the “Respondent”), pro se, appeared in person. Jacqueline O. Gregory-Longmire, of Chandler and Halasz, Inc, P.O. Box 9349, Richmond, Virginia 23227, (804) -730-1222, after being duly sworn reported the hearing and transcribed the proceedings of April 28, 2023. Beverly S. Horne, of Chandler and Halasz, Inc, P.O. Box 9349, Richmond, Virginia 23227, (804) -730-1222, after being duly sworn reported the hearing and transcribed the proceedings of May 19, 2023.

The Chair inquired as to each member of the Board on April 28, 2023, and May 19, 2023 as to whether any of them had any personal or financial interest or bias which would preclude him or her from fairly hearing this matter and serving on the Board, to which inquiry each member, including the Chair, responded in the negative.

All legal notices of the date and place of the April 28, 2023, and May 19, 2023, hearings were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by the *Rules of the Supreme Court of Virginia* (hereinafter referred to as the “*Rule(s)*”), Part Six, Section IV, Paragraphs 13-18.

This matter came before the Board based on the November 22, 2022, District Committee Determination for Certification by the 5th District, Section I, pursuant to Part Six, Section IV, Paragraphs 13-18 of the Rules involving violations of Rules 5.5 (c), 8.1 (a), 8.4 (b) and (c) , and Maryland Attorney Rules of Professional Conduct Rule 19-308.4.

I. PROCEDURAL MATTERS

A. Prehearing matters and conduct

During the Pre-hearing Conference on April 19, 2023, the Respondent made a Motion to Continue this matter in order for the Respondent to obtain legal counsel to represent him. The Motion to Continue was denied by the Chair as the Respondent had received notice of the proceedings and hearing date in January, February, and March 2023 and had adequate time to obtain legal counsel. The Respondent’s objections to the VSB’s exhibits were denied. The Respondent was granted the opportunity to submit a late witness list, to submit late exhibits and to have certain witnesses participate remotely. Respondent was reminded that it was his responsibility to arrange for the technology for remote witnesses, subpoenas for witnesses and to coordinate technology issues prior to the hearing with the Clerk’s Office. During the Prehearing Conference, VSB Exhibits 1 through 11, (omitting #7 which was withdrawn) were admitted into

evidence by the Chair. The Respondent provided a verbal list of anticipated witnesses and was granted the opportunity to submit a written list after the Prehearing Conference.

During the Prehearing Conference, the Respondent was disruptive, rude, and demonstrated a complete disrespect for the Disciplinary proceedings and the parties to the Prehearing Conference by refusing to comply with requests from the Chair to conduct himself in a professional and polite manner, to discontinue insulting other parties on the call, and stop interrupting other people while they were speaking. The Chair repeatedly requested that the Respondent cooperate with reasonable rules of decorum and respect that are expected of a Virginia attorney but was unable to gain cooperation from the Respondent.

B. Conduct during the hearing

The hearing began on April 28, 2023 at the Virginia State Corporation Commission. Throughout the hearing, the Respondent displayed disruptive and disrespectful behavior toward the Board, the Bar Counsel and the Clerks. The Respondent repeatedly interrupted other parties and the Board, spoke while other parties were speaking, made rude and disrespectful comments while others were speaking, cursed at one witness, and continuously demonstrated contempt and disrespect for Bar Counsel and the Chair. Although repeatedly warned, the Respondent would not cooperate with requests to maintain decorum and respectful conduct during the hearing.

Despite being ordered during the Prehearing Conference to make arrangements for remotely participating witnesses, the Respondent did not make prior arrangements with the Clerk's Office to have his witnesses participate remotely and he waited until the hearing to make requests for special accommodations for those witnesses. At the Chair's request, the Clerk's Office contacted the Respondent's witnesses on his behalf to make arrangements for remote

participation so that the hearing could proceed on April 28th as the Respondent's Motions and conduct at the beginning of the hearing had already caused an unnecessary delay.

The Respondent's lack of preparation for the hearing as well as his inability to work with the technology needed for remote participation of witnesses caused considerable disruption throughout the hearing. Respondent never provided his own computer for remote participation of witnesses, and he was unfamiliar with the technology for video conferencing. Due to Respondent's unfamiliarity with the technology used for the remotely participating witnesses and his failure to bring his own computer, some witnesses could not understand Respondent's cross examination. It was necessary for Bar Counsel or the Clerk's Office to allow the Respondent to use their computers in order for the cross examination to continue. Due to the Respondent's obstreperous behavior, sharing of the Bar Counsel's computer and the Clerk's computers created safety concerns due to their proximity to the Respondent and interfered with the Bar Counsel's ability to observe the proceedings.

On April 28, 2023 at approximately 4:30 p.m., Bar Counsel concluded her case but it was determined that the Respondent would require another day to present his case. The parties agreed to continue the hearing until May 19, 2023. The Respondent was advised that he had three weeks to learn the technology and arrange for his witnesses to participate remotely or in person. The Respondent was ordered to confirm with the Clerk's Office prior to the second hearing date that the technology for remote participation of his witnesses was compatible with the technology at the location for the next hearing. The Respondent asked whether he could obtain legal counsel to represent him on May 19, 2023, as he did not understand how to proceed with the hearing and the technology. The Chair informed him that he could do so.

On May 19, 2023, the second day of the hearing took place at the Colonial Heights Courthouse. The Respondent had made no arrangements for remote participation of his witnesses and became completely overwhelmed and disruptive about his inability to understand the technology or the proceedings. The Respondent once again demonstrated disrespectful, rude, and disorderly conduct by refusing to cooperate with the Chair's requests to conduct himself in a professional manner, by continuing to talk over other parties and make comments about other speakers, and continually disparaging the disciplinary process. After being warned that continued disruptive behavior would result in the Chair asking the Respondent to leave the room to compose himself, the Respondent disrespectfully stated that he did not have to comply with such a request. It was necessary to have courtroom security present to assist with maintaining order and decorum in the courtroom throughout the hearing.

Over Bar Counsel's objection, the Board determined that the Board and the Clerk's Office would assist with providing technology so that the Respondent could have his witnesses participate remotely as well as to provide the Respondent with the opportunity for due process in presenting his case. One of the Board Panel Members provided her personal computer and conferencing service account so that the Respondent's witnesses could participate. The Clerk's Office assisted the Respondent with using the technology and made arrangements for the witnesses to participate because the Respondent was not familiar with the technology. The Respondent's failure to prepare for the hearing caused considerable delays and disruption to the hearing. The Respondent continued to be rude and disrespectful with the Disciplinary Board Clerk while she attempted to help him with the technology. Respondent was also disrespectful to the courthouse deputies who made extraordinary efforts to provide the technology for the Respondent to put on his witnesses. Despite requests by the Chair to maintain appropriate

decorum and respectful behavior, the Respondent failed to do so and continued to make sarcastic remarks and to interrupt other parties. At one point, after the Chair requested that the Respondent take a break and leave the courtroom to compose himself, the Respondent refused to do so and the courtroom deputies cleared the courtroom until the Respondent agreed to cooperate with the orders of the Chair.

Throughout the hearing, the Respondent was uncooperative, continually disruptive, unwilling to cooperate with the Chair's requests or rulings, repeatedly ignored the orders of the Chair, was disrespectful of witnesses and staff, and demonstrated little understanding of the proceedings or the Rules of Professional Conduct. The Chair and the Board Panel Members determined that the Board had no authority regarding contempt powers nor did the Board have the power to exclude the Respondent from a public hearing. Accordingly, the Board determined that it would continue with the hearing despite the Respondent's unprofessional and disruptive behavior. Although considered as part of the aggravating factors regarding remorse and with regard to rulings during the hearing, the Respondent's behavior during the Prehearing Conference and the two days of hearing was not the subject of the certifications before the Board and therefore was not applied in reaching the Board's findings regarding the certifications. However, the Board notes that the Respondent's complete contempt for the Disciplinary Board's proceedings and his disrespectful and disruptive conduct in no manner demonstrate the professionalism expected of an attorney licensed to practice law in the Commonwealth of Virginia.

C. Procedural matters

At the hearing, both parties made opening statements. There were no stipulations. Bar Counsel presented the VSB's case. During VSB's case in chief, VSB Exhibit #12 was

introduced. Also, VSB Exhibit #8 was admitted over Respondent's objection. During the VSB's case in chief, Respondent's Exhibits #1 and #2 were admitted over Bar Counsel's objection and Respondent's Exhibit #3 was admitted without objection. Respondent's Exhibit #4 was not admitted.

On April 28, 2023, Bar Counsel rested her case after presenting Mr. Hine's testimony. At that time, it was determined that the hearing could not proceed further on that day and the parties due to the amount of time that the Respondent requested to put on his case. The Board agreed that the hearing would continue on May 19, 2023 at a location to be determined by the Clerk's Office.

Prior to presenting his evidence on May 19, 2023, the Respondent made an oral Motion for Summary Judgment. The Chair took this motion as a Motion to Strike and heard argument by the Respondent and Bar Counsel. After considering the argument of both Bar Counsel and the Respondent, the Chair denied the Respondent's Motion to Strike to which the Respondent noted his exception. The Respondent then presented his evidence.

The Respondent was unable to arrange to have one witness, Sally Twentyman, LCSW, attend the hearing to testify. Prior to his own testimony, the Respondent stated that he wanted to replace Respondent's Exhibit #1, (a letter from Sally Twentyman already admitted into evidence) with a corrected letter dated April 27, 2023, by Sally Twentyman, LCSW. This request was accepted by the Chair over the objection of Bar Counsel. Respondent likewise wanted to introduce Respondent's Exhibit #4, a May 10, 2023, letter from Sally Twentyman, LCSW. This request was objected to by Bar Counsel because it had not been provided until the day of the hearing and because the letter appeared to provide evidence as to the ultimate issues of

the case. The Chair sustained this objection and did not admit Respondent's Exhibit #4. The Respondent's objection was noted.

II. Findings of Fact and Summary of Witness Testimony

The case before the Board primarily concerned (then) Fairfax County Circuit Court Judge Mann's complaint to the Virginia State Bar regarding the Respondent's conduct on December 17, 2021 before the Fairfax County Circuit Court and also dealt with related issues later identified by the VSB regarding the Respondent's failure to report to the Maryland State Board of Law Examiners the pending Virginia State Bar complaint related to those events. As one of the Respondent's arguments centered on the accuracy of the transcript of the December 17, 2021 hearing, the Board determines that it is useful to include summaries and findings of fact of the witnesses' testimony along with its Findings of Fact.

A. Witness testimony summaries and findings of fact

1. Deputy Sheriff Melise Hoyer testifying by remote participation. The VSB's first witness was Deputy Melise Hoyer. Deputy Melise Hoyer testified that she was employed by the Fairfax County Sheriff's Office.

a. On December 17, 2021, she was the courtroom bailiff for Fairfax County Circuit Court Judge Thomas Mann. On that day Judge Mann was hearing the discontinuance motions docket.

b. When the *Lalich v Lewis* case was called on that docket, Ms. Lalich (Plaintiff) and the Respondent stepped forward. Deputy Hoyer heard the Respondent tell Judge Mann he represented Ms. Lalich.

c. Judge Mann requested the Respondent to note his appearance in writing. Deputy Hoyer gave Respondent a blank Praeceptum or Order to complete but he did not do so.

d. Deputy Hoyer told the VSB investigator there was no recording of these proceedings. She stated on direct examination that her office had no control over recordings in the courtroom as those were controlled through the Chief Judge's office.

e. On cross examination Deputy Hoyer stated the Respondent and Ms. Lalich left the court room at some point on December 17, 2021 and did not return. Deputy Hoyer did not agree with the Respondent's characterizations of his conduct on December 17, 2021 or whether he left the room or implied that he would cooperate with the Court's requests.

f. The VSB had no redirect examination.

g. The Board found Deputy Hoyer to be credible.

2. Gifford Hampshire, Esq., testifying by remote participation. The VSB's second witness was Mr. Gifford Hampshire. Mr. Hampshire testified that on December 17, 2021, he was the Judicial Law Clerk to Judge Thomas Mann. He testified he was present in court during the discontinuance docket that day.

a. When the case was called Ms. Lalich went to counsel table and Respondent was beside her. Mr. Hampshire testified that he believed Respondent was counsel for Ms. Lalich because the Respondent came to counsel table with her, answered questions from Judge Mann about the case that were directed to Ms. Lalich, and agreed to fill out a Praeceptum noting his appearance.

b. Mr. Hampshire testified that Judge Mann had concerns about whether Ms. Lalich was pro se or being represented.

c. Mr. Hampshire did not recall the Respondent stating verbatim that “he represented her”.

d. Judge Mann eventually became aware that earlier on the morning of December 17, 2021, an attorney named Johnson called in to calendar control and had the *Lalich* case continued by Judge Oblon. Mr. Hampshire indicated that it was his impression that Judge Mann was angry about that.

e. During the September 15, 2022 VSB interview, VSB Investigator Fennessey wrote in his Report of Investigation that Mr. Hampshire said “Mr. Vena told Judge Mann he was representing the Tyrone Law Group, who was handling Plaintiff’s case, not that he represented plaintiff.” Mr. Hampshire denied making that statement.

f. Mr. Hampshire testified there was no court reporter transcribing the events in the courtroom on December 17, 2021, but the events were recorded by the court’s G-PAR system device (a sound recording system). Mr. Hampshire testified that he had not been given a copy of the December 17, 2021 hearing transcript to read nor had he hear the audio recording of the hearing.

g. At Judge Mann’s direction, Mr. Hampshire determined that the Respondent was not a member of the Virginia State Bar, Maryland State Bar or District of Columbia Bar. He determined that the Respondent was in fact a member of the Connecticut State Bar.

h. Mr. Hampshire was cross examined; redirect examined and recross examined.

Responded asked the Chair to reserve Mr. Hampshire to recall for his case in rebuttal which was denied by the Chair.

i. The Board found Mr. Hampshire to be credible.

3. David Fennessey, VSB Investigator, testifying in person. The VSB's third witness was Mr. David Fennessey. Mr. Fennessey testified that he was employed as a Virginia State Bar investigator and had been so employed for the past fourteen (14) years.

a. He testified that one of his duties was to investigate Judge Mann's complaint against the Respondent. In doing so, he did, among other things, take recorded statements of Judge Mann, Deputy Hoyer, Mr. Hampshire, Ms. Lalich, Mr. Tyrone, Mr. Johnson and the Respondent and had an email exchange with Mr. Hein. All of these statements were put in writing as part of his reports of investigation (ROI).

b. During his statement to Mr. Fennessey during the VSB interview, the Respondent stated that on December 17, 2021, he advised Judge Mann that he was there in Court on behalf of the Tyrone Law Group, and he asked the Judge to pass the case until Mr. Johnson arrived. The Respondent stated that he explained to the Judge that Mr. Johnson was the attorney of record in the case.

c. Mr. Fennessey testified that when he originally questioned someone at the Fairfax County Circuit Courthouse about a recording of the December 17, 2021, hearing he was told there was no recording. At a later date, someone from the court's Information Technology department contacted him and told him they had found a tape recording of the December 17, 2021 hearing. Mr. Fennessey had the tape recording of the hearing

transcribed as it pertained to these proceedings. This was introduced in the VSB's case as Exhibit #6.

d. On March 16, 2023, a copy of the transcript of the December 17, 2021 hearing and other VSB exhibits were provided to Respondent by Investigator Fennessey by delivering them to the Respondent's home where they were accepted by a female family member.

e. During Mr. Fennessey's testimony, the Respondent vigorously objected that this method of delivery of service was invalid because the female family member was his fourteen-year-old daughter and not an adult eligible to receive service.

f. Mr. Fennessey indicated that he did not know the age of the person who accepted the documents and that he was not familiar with the law regarding service of process.

g. On cross examination Mr. Fennessey testified that Mr. Hampshire told Judge Mann that the Respondent was representing the Tyrone Law Group who was handling Plaintiff's (Lalich's) case.

h. Mr. Fennessey also admitted on cross examination that he did not originally interview Bruce Johnson, the Virginia attorney who was handling the case for the Tyrone Law Group, or Ms. Lalich for his October 24, 2022 report of investigation. He did not think that those witnesses were necessary.

i. When he did a supplemental report of investigation on November 4, 2022, he did include interviews of Bruce Johnson and Ms. Lalich. This supplemental report of investigation was admitted as Respondent's (originally VSB Exhibit #7) Exhibit #3 without objection.

j. Mr. Fennessey also confirmed that when he interviewed Ms. Lalich, she stated Mr. Vena specifically told her he was not representing her at the hearing but was just there to assist her or the law firm on behalf of Tyrone Law Group.

k. The Board found Mr. Fennessey to be a credible witness.

4. Raymond Hein, Maryland State Board of Law Examiners, testifying remotely. The VSB's fourth witness was Mr. Raymond A. Hein who stated that he was employed as the Director of Character & Fitness for the Maryland State Board of Law Examiners.

a. Mr. Hein confirmed that on February 16, 2022, the Maryland State Board of Law Examiners received from the Respondent a Petition for Admission By Out-of-State Attorney for Admission Without Examination to Maryland Bar (hereinafter Petition for Admission) that was signed on February 10, 2022.

b. The February 10, 2022 Petition for Admission appeared to the Board to have been originally drafted on September 6, 2021 and did not include any reference to the complaint against Respondent filed with the Virginia State Bar by Judge Mann in December 2021.

b. He further testified that Maryland Rule 19-216(a)(3), places on any Petitioner a continuing obligation to report to the Board any material change in information previously furnished.

c. Mr. Hein noted that the Respondent filed a character report of the National Conference of Bar Examiners (NCBE) finalized on September 6, 2021.

d. The Respondent originally stated in his answers to NCBE questions numbers 11 and 12 that he was not subject to any disciplinary hearings and/or charges of unauthorized practice law among other things.

e. An Amendment was filed on February 22, 2022 that did include the complaint filed by Judge Mann with the Virginia State Bar. The amended answers were made to NCBE and not directly or additionally made to the Maryland State Board of Law Examiners.

f. On cross examination Mr. Hein confirmed that there is no requirement in Maryland that the amendment be in writing. He also stated he had no record of anyone calling his office to amend Respondent's Maryland Petition for Admission.

g. Based on the Respondent's cross examination of Mr. Hein, the Board found that it was unclear as to whether the Respondent understood the process regarding the NCBE filings and when or how the Maryland State Board of Law Examiners received information from the NCBE or what his obligations as an applicant for admission to the Maryland State Board of Law Examiners were regarding reporting the complaint pending with the Virginia State Bar.

5. Kimberly Lalich, testifying remotely. Respondent's first witness was Kimberly Lalich, the Plaintiff in *Lalich v. Lewis*.

a. Ms. Lalich testified that she was involved in a motor vehicle crash in Virginia and retained the Tyrone Law Group in Maryland to represent her.

b. She first met the Respondent at the Fairfax County Circuit Court on December 17, 2021 when her case was on a discontinuance docket. During her testimony, she did not appear to understand the purpose of the discontinuance docket.

c. She testified that the Respondent made it clear to her he was not licensed in Virginia to practice law but that attorney Bruce Johnson, who was licensed in Virginia, would be appearing on her behalf that morning. She testified that Mr. Johnson did not appear on December 17, 2021.

d. On cross examination Bar Counsel read through the transcript of the December 17, 2021 hearing including the statements by the Respondent regarding representing Ms. Lalich and discussing her case with the Court.

e. Upon hearing the transcript read, Ms. Lalich confirmed that the transcript accurately reflected what she remembered happening in court that day.

f. Respondent then questioned her by way of redirect examination.

g. The Board found Ms. Lalich to be credible.

6. Bruce Johnson, Esq, testifying remotely. The second witness called by the Respondent was attorney Bruce A. Johnson, Jr.

a. Mr. Johnson testified that at all times relevant to this matter he was a licensed member of the Virginia State Bar.

b. He was originally hired by the Tyrone Law Group on or about December 13, 2021, to handle certain cases the law firm had in Virginia.

c. Mr. Johnson knew and/or had worked with the Respondent prior to being retained by the Tyrone Law Group.

d. Mr. Johnson testified that Ms. Lalich had a personal injury case pending before the Fairfax County Circuit Court which was on the Court's discontinuance docket to be heard

on December 17, 2021. The case was in jeopardy of being dismissed for nonactivity and Mr. Johnson was retained to assist the Tyrone Law Group with preventing that from happening.

e. Rather than attend Judge Mann's discontinuance docket with Ms. Lalich, Mr. Johnson instead filed and obtained a continuance through Judge Oblon's calendar control docket on the morning of December 17, 2021.

f. Mr. Johnson indicated that he did not tell the Respondent to go to the discontinuance docket with Ms. Lalich and did not have reason to know that the Respondent would be doing so. Mr. Johnson believed that he was handling the matter in the Virginia court.

g. On cross examination, Mr. Johnson confirmed that he entered a Praecipe with the Court noting his appearance on behalf of Ms. Lalich on or about December 29, 2021. On cross examination, Mr. Johnson was unable to clarify when he was actually retained to handle the case.

h. Mr. Johnson was questioned by redirect examination.

i. The Board found Mr. Johnson to be credible.

7. Erick Tyrone, Esq. testifying remotely. Respondent's third witness was attorney Erick Tyrone who stated that he was the owner of the Tyrone Law Group at all times relevant to these proceedings.

a. Although Mr. Tyrone has been licensed to practice law in Maryland and the District of Columbia, his licenses were suspended on October 11, 2021 and remained suspended at the time of the hearing.

- b. The Respondent was employed by the Tyrone Law Group on or about September 2021.
- c. Mr. Tyrone testified he never instructed the Respondent to go to Fairfax Circuit Court and state to the court that he represented Ms. Lalich in her pending case before the Court.
- d. Mr. Tyrone stated that the Respondent had participated in meetings with Mr. Johnson regarding Ms. Lalich's case and that he understood that the Respondent would go to Court to introduce Ms. Lalich to Mr. Johnson as they had not met before that time.
- e. Mr. Tyrone remembered Mr. Johnson discussing Ms. Lalich's case as early as September 2021 and was surprised that Mr. Johnson was not actually retained until shortly before the December hearing.
- f. Mr. Tyrone knew that the Respondent was not licensed to practice law in Virginia and that it was necessary to have a Virginia licensed attorney such as Mr. Johnson handle matters before the Fairfax County Circuit Court.
- g. Mr. Tyrone stated he never saw a transcript of the December 17, 2021 hearing before Judge Thomas Mann of the Fairfax County Circuit Court.
- h. Mr. Tyrone was cross examined by Bar Counsel and then was examined on redirect by the Respondent.
- i. On redirect, Mr. Tyrone stated that the Respondent was of good character.
- j. Mr. Tyrone admitted that he had been since October 2021 and was currently suspended from the practice of law by both the Maryland State Bar and District of Columbia Bar.

k. The Board found Mr. Tyrone's testimony concerning his suspensions, his employment of the Respondent, and the decision to retain Mr. Johnson to handle the Ms. Lalach's case in Virginia court to be credible, but the Board did not find the rest of Mr. Tyrone's testimony to be credible.

7. John Vena, II, Esq. As his final witness, the Respondent testified in person on his own behalf. The Respondent testified that he had been practicing law for more than three decades mostly in the fields of federal labor law and employment law.

a. Among other things, Respondent testified that the transcript of the December 17, 2021 hearing before Judge Mann was a "partial" not a complete transcript. The Respondent believed that a case of that nature would have involved more preliminary statements by the Court therefore the Respondent surmised the hearing had not been fully transcribed.

b. The Respondent did not subpoena the court reporter to question the authenticity of the transcript.

c. The Board did not find Respondent's argument regarding the authenticity of the transcript to be persuasive particularly in light of the fact that Ms. Lalach had already confirmed that the transcript accurately represented what she remembered from the hearing.

d. The Board found that the transcript of the December 17, 2021 hearing in Fairfax County Circuit Court accurately reflected the proceedings that day.

e. The Respondent also testified that it was unfair to provide a copy of the hearing transcript so late in the investigation and proceedings (February or March). However, the

Board found that the hearing transcript was provided in sufficient time for the Respondent to review and prepare for the hearing.

f. The Respondent testified that he had met with Mr. Tyrone and Mr. Johnson about the *Lalich v. Lewis* case and the fact that the case was likely impacted by the lack of activity on the case filed *pro se* by Ms. Lalich in Fairfax County Circuit Court. Mr. Johnson was retained to assist the Tyrone Law Group and Ms. Lalich with preventing that from happening.

g. The Respondent testified that Mr. Tyrone was very busy with outside activities (coaching) and may not have remembered that there was discussion about the Respondent accompanying Ms. Lalich to Court to introduce her to Mr. Johnson. The Respondent believed that Mr. Tyrone had communicated that fact to Mr. Johnson.

h. The Respondent also testified that Mr. Johnson had not communicated with him about seeking a continuance for the *Lalich* case and he therefore was expecting Mr. Johnson to be in Court that morning.

i. The Respondent disagreed with the testimony of Deputy Hoyer and the Judge's Clerk that he in anyway represented himself as representing Ms. Lalich or that he was uncooperative with Deputy Hoyer.

j. The Respondent insisted that he knew that he was not authorized to practice before the Court, but he was only there to represent the Tyrone Law Group because he believed that Mr. Johnson was running late, and he wanted to assure the Court that the Tyrone Law Group was representing Ms. Lalich.

k. The Respondent did not believe that his conversations with the Court in any manner constituted practicing law because he was only protecting his law firm's interest in serving Ms. Lalich.

l. However, the Respondent also testified that had he not been there in Court that day with Ms. Lalich and spoken with the Court, then Ms. Lalich's case would have been dismissed. In fact, Ms. Lalich's case was not dismissed by Judge Mann, and she was later successful in her suit. The Respondent believed that his actions in Court that day preserved Ms. Lalich's case, protected his law firm's client, and protected his law firm.

m. Respondent was cross examined by Bar Counsel and Respondent then rested his case.

n. The Board did not find of the Respondent's testimony concerning his conduct on December 17, 2021 to be credible. The hearing transcript was determined to be credible and was corroborated by Ms. Lalich and Judge Mann. Respondent provided no evidence that the transcript was not accurate. The hearing transcript clearly indicates that the Respondent was representing himself as a licensed attorney and practicing law before the Court.

B. Additional Findings of Fact

1. Respondent is not, nor has he ever been, licensed to practice law in the Commonwealth of Virginia. At all times relevant hereto Respondent was only licensed to practice law in Connecticut.

2. On December 17, 2021, Respondent appeared at the Fairfax County Circuit Court's monthly discontinuance docket regarding the matter of *Kimberly Lalich v Tisha Lewis*.

3. Ms. Lalich previously filed this suit pro se and retained the Tyrone Law Group as her counsel prior to the December 17, 2021, hearing.

4. On December 17, 2021, Respondent was employed by the Tyrone Law Group.

5. On December 17, 2021, the Respondent stood beside Ms. Lalich in Fairfax County Circuit Court when her case was called by Judge Thomas Mann on the Court's discontinuance docket.

6. Although there was no court reporter present, the December 17, 2021 discontinuance docket was audibly recorded by the court's G-PAR system (audio recording system).

7. Portions of that docket relevant to these proceedings were accurately transcribed from the courts G-PAR system and entered into the record of this matter as Virginia State Bar Exhibit # 6.

8. The transcript reflects that the Court asked "so who's here?" and the Respondent replied "John Vena on behalf of the Plaintiff. Kimberly Lalich, the Plaintiff, is also appearing."

9. The Court further asked, "And what is your name, sir?" to which the Respondent replied "John Vena, V-E-N-A, I'm from the Tyrone Law Group."

10. The Court then asked, "And who do you represent?" to which the Respondent replied, "Ms. Lalich".

11. The Respondent and the Court had further conversation including discussing facts regarding the *Lalich v. Lewis* matter as well as questioning Mr. Johnson's continuance of the

case through another judge. The Respondent argued procedural matters regarding the case and proffered facts.

12. At no time did the Respondent advise the Court he was not a member of the Virginia State Bar.

13. The Court later asked the Respondent to enter his appearance in writing, but he did not do so, nor did he inform the Court that he could not do so.

14. Judge Thomas Mann and his law clerk determined that the Respondent was not a member of the Virginia State Bar.

15. As a result, that same day Judge Mann filed a Bar complaint alleging Respondent's Unauthorized Practice of Law.

16. In his January 19, 2022, response to Judge Mann's December 17, 2021 VSB complaint, the Respondent stated that he had an application pending before the Maryland State Bar for admission without examination.

17. On February 10, 2022, Respondent submitted his Petition for Admission to the Maryland State Board of Law Examiners and the Petition for Admission did not include reference to the Virginia State Bar complaint filed against Respondent by Judge Mann on December 17, 2021.

18. Among other things, the Petition for Admission required an applicant to complete a questionnaire used by the National Conference of Bar Examiners (NCBE). Although it was not clearly explained, the Board found that the Respondent originally created his Petition for Admission on or around September 6, 2021.

19 Question 11 of the NCBE questionnaire asked “have you ever been the subject of any charges, complaints, or grievances (formal or informal) concerning your conduct as an attorney including any now pending?”

20. The Respondent answered “no” to question 11. That answer was incorporated into the Petition for Admission received by the Maryland State Board of Law Examiners on February 16, 2022.

21. The Respondent had an obligation to amend his responses if facts changed.

22. On February 26, 2022, the Respondent did in fact file an amended answer with the NCBE to his answer to question 11 advising that a Virginia State Bar complaint was pending and forwarded said amendment to the NCBE but the Respondent did not actually advise the Maryland State Board of Law Examiners of the Virginia State Bar complaint.

23. During his September 2022 interview with the VSB Investigator Fennessey, the Respondent told him that he had informed the Maryland State Board of Law Examiners of the Virginia State Bar Complaint. In October 2022, Investigator Fennessey was informed by the Maryland State Board of Law Examiners that it had not received notice from the Respondent of the Virginia State Bar complaint.

24. Raymond Hein, Director of Character & Fitness for the Maryland State Board of Law Examiners, testified that the Respondent did not contact the Maryland State Board of Law Examiners to inform them of his Virginia State Bar complaint. However the Respondent did amend his answer to question 11 and forward same to the NCBE. NCBE does not send amendments to the Maryland State Board of Law Examiners at the same time as it receives them

from a petitioner therefore the Maryland State Board of Law Examiners did not learn of the complaint until February.

25. The Board found that it was not clear that the Respondent understood the process for application for admission to the Maryland State Bar and the relationship between the NCBE and the Maryland State Board of Law Examiners. Accordingly, the Board could not conclude by clear and convincing evidence that the Respondent was untruthful about his application or amending his application for admission to the Maryland State Bar.

III. DISPOSITION

Upon conclusion of the Respondent's case, the Board retired to closed session to deliberate. The Board considered the testimony of all witnesses, all exhibits introduced, the arguments of Bar Counsel and the Respondent, as well as all legal authority presented. After due deliberation in closed session, the Board reconvened in open session to announce the following rulings.

1. Rule 8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact.

The Board was unable to find by clear and convincing evidence that the Respondent made a false statement of material fact to the Maryland State Board of Law Examiners or to the Virginia State Bar regarding his pending Maryland Petition for Admission. In part, this finding was made because it was not clear that the Respondent understood the relationship between the NCBE filings and the Maryland Petition for Admission process. The Respondent believed that

by informing the NCBE of the pending Virginia State Bar complaint that NCBE would inform the Maryland State Board of Law Examiners of the additional information. Mr. Hein indicated that NCBE does not update the Maryland State Board of Law Examiners regarding additional information. Mr. Hein additionally testified that the Respondent's Petition for Admission is still not complete. Accordingly, the Board could not conclude that there was clear and convincing evidence that the Respondent knowingly made a false statement of material fact in violation of Rule 8.1 (a).

2. Rule 5.5 Unauthorized Practice Of Law; Multijurisdictional Practice of Law

(c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction or assist another in doing so.

It is a violation of Rule 5.5 Unauthorized Practice of Law for a lawyer not admitted to the Virginia State Bar to practice law in Virginia. The Board finds by clear and convincing evidence that the Respondent's conduct on December 17, 2021 before the Fairfax County Circuit Court constituted the practice of law in Virginia. When the case was called by the Court, the Respondent stated that he was there for Ms. Lulich, the Plaintiff. The Respondent in fact spelled his name for the Court so that the Court would know who he was. Although the Respondent at times noted that he was with the Tyrone Law Group, he did not explain to the Court that he was not licensed to practice law in Virginia, nor did he state that he was only there to inform the Court that the Virginia attorney retained to handle the matter was running late. The Respondent was evasive with the Court about noting his appearance with the Court and deliberately refused to fill out the paperwork provided to him by the Court to note his appearance. The Respondent presented procedural matters and facts to the Court regarding Ms. Lulich's case. The Respondent's testimony inferred that had he not been in Court on December 17, 2021 to take the actions that he did, Ms. Lulich, as well as his law firm, would have suffered adverse

consequences. The Board found that the Respondent held himself out to be a lawyer by his representations to the Court and by arguing procedural aspects of Ms. Lalich's case to the Court. The Board found by clear and convincing evidence that the Respondent's conduct violated Rule 5.5.

3. Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- 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.**

A lawyer shall not commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law; engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law. For the same reasons stated under the Board's findings for the Rule 5.5 (c) violation noted above, the Board finds that the Respondent committed a deliberately wrongful act that reflected adversely on his honesty, trustworthiness and fitness to practice law. The Respondent knew he was not licensed to practice before the Fairfax County Circuit Court and he also knew that a Virginia licensed attorney had been retained to handle the matter for Ms. Lalich because neither he nor any Maryland attorney in the Tyrone Law Group was authorized to practice law in Virginia or before the Fairfax County Circuit Court. There was no reason for the Respondent to become involved in the matter before Judge Mann on December 17, 2021 yet the Respondent chose to stand with Ms. Lalich and act on her behalf and to protect his law firm. When repeatedly asked by Judge Mann and the Court staff to note his appearance, the Respondent failed to inform the Court of his status as a non-licensed attorney but instead

misrepresented himself. Additionally, the Respondent was dishonest with the VSB during the investigation of the complaint regarding his conduct in Court as he misrepresented what he had said to the Court as well as his actions in the courtroom. Once the hearing transcript was produced and the actual facts and circumstances were known, the Respondent failed to acknowledge his wrongdoing. The Board found by clear and convincing evidence that the Respondent violated Rule 8.4 (b) and (c).

4. Maryland Attorney Rules of Professional Conduct Rule 19-308.4 it is professional misconduct for an attorney to:

(C) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

The Board did not find by clear and convincing evidence that the Respondent had violated Maryland Attorney Rules of Professional Conduct Rule 19-308.4 Misconduct as that violation was related to the Respondent's Petition for Admission. As the evidence regarding the Petition for Admission to the Maryland State Board of Bar Examiners was not clear, the Board did not find by clear and convincing evidence that the Respondent had violated Rule 8.1 regarding his Petition for Admission to the Maryland Bar therefore Maryland Attorney Rules of Professional Conduct Rule 19.308.4 was also not violated.

In summary, the Board did not find that the VSB proved violations of Virginia Rules of Professional Conduct 8.1(A) or Maryland Rule of Professional Conduct 191-308.4 (C) by clear and convincing evidence and those two violations are dismissed. The Board did find by clear and convincing evidence violations of Rules 5.5(c), 8.4(B) and 8.4(C).

IV. SANCTIONS

After the Board announced its findings by clear and convincing evidence, it received further evidence and argument from the Bar and the Respondent regarding aggravating and mitigating factors applicable to the appropriate sanction for misconduct underlying the violation of the Virginia Rules of Professional Conduct, including the Respondent's disciplinary record. As a concession to the Respondent, the Board had already allowed character testimony from the Respondent's witnesses in the misconduct phase of the hearing and considered that evidence during the Sanctions phase of the hearing. The Respondent did at the Sanctions stage offer to apologize to Judge Mann for his conduct, but the Board did not find this late offer to be persuasive. The Respondent further provided testimony about his current family and work circumstances.

In deliberating on sanctions, the Board found aggravating factors as follows:

1. *Bad faith obstruction of the disciplinary proceeding* by intentionally failing to comply with rules or orders of the Board and the VSB.
2. *Deceptive practices during the disciplinary process* - the Board found the Respondent's conduct during the December 17, 2021 hearing as well as throughout the disciplinary complaint investigation to be deceptive.
3. *Refusal to acknowledge the wrongful nature of his conduct*- the Respondent failed to demonstrate any appreciation of the wrongful nature of his unauthorized representation of a client in the Fairfax County Circuit Court, his misrepresentation to the Court, or his untruthful conduct during the Virginia State Bar's investigation of the complaint filed by Judge Mann.

4. *Substantial experience in the practice of law*- the Respondent has practiced law for more than three decades.

In consideration of mitigating factors, the Board was only able to find that the Respondent had no prior disciplinary record.

V. DISPOSITION

Following closed deliberations to consider appropriate sanction, the Board reconvened and announced its decision. Having considered the evidence presented and argument of Bar Counsel and the Respondent, it is

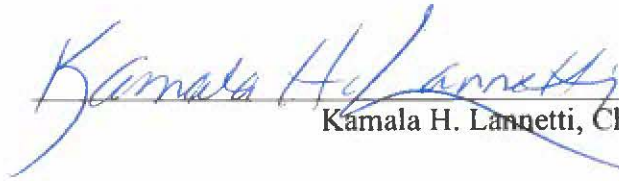
ORDERED that by majority vote the Respondent's license to practice law in the Commonwealth of Virginia should be **SUSPENDED** for a period of five years effective May 19, 2023.

It is further **ORDERED** that, pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules, the Clerk 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, and by regular first-class mail to John Vena, II, 5102 12th Road South, Arlington, VA 22204, by electronic, regular and certified mail, and a copy by electronic mail to Renu Brennan, Bar Counsel.

ENTERED THIS 15th DAY OF AUGUST 2023.

VIRGINIA STATE BAR DISCIPLINARY BOARD


Kamala H. Lannetti, Chair