

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF

OLADIPO AKINWUNMI AKINDEKO

VS B Docket No. 21-000-122313

MEMORANDUM ORDER OF SUSPENSION

THIS MATTER came to be heard on June 25, 2021, by video conference,¹ before a panel of the Disciplinary Board consisting of Yvonne S. Gibney, Chair; Reba H. Davis, lay member; Stephanie G. Cox; Kamala H. Lannetti; and Jeffrey L. Marks. 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.

The Virginia State Bar (the “VSB”) was represented by Renu M. Brennan, Bar Counsel. OlaDipo Akinwunmi AkinDeko, (the “Respondent”) appeared with counsel, Bernard J. DiMuro.

Beverly Lukowsky, court reporter, P.O. Box 9349, Richmond, Virginia 23227, telephone number 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 Part Six, Section IV, Paragraph 13-18 of the Rules of the Supreme Court of Virginia (“Rules”).

¹ On March 12, 2020, the Governor of Virginia declared a state of emergency regarding the novel coronavirus (COVID-19), pursuant to Executive Order 51. The state of emergency remains in effect and will continue indefinitely, until it is revised or otherwise lifted by the Governor. In light of the Governor’s Executive Order 51, the Board convened the hearing via video conferencing using the Microsoft Teams platform, which provided the opportunity for members of the public to observe. The hearing was recorded and otherwise complied with the Virginia Freedom of Information Act regarding electronic meetings, found in Virginia Code § 2.2-3708.2, as supplemented by § 4-0.01(g) of Virginia House Bill 29, Chapter 1283 (2020).

The matter came before the Board on the Virginia State Bar's Notice of Show Cause Hearing for Failure to Comply with Part Six, § IV, ¶ 13-29 of the Rules and the Petition for Rule to Show Cause and the Rule to Show Cause issued on April 2, 2021. The Board took judicial notice of the Notice of Hearing and the Petition for Rule to Show Cause and received these documents in evidence as Board Exhibits 1 and 2, respectively. The Board admitted VSB Exhibits 1-10 and Respondent's Exhibit 2 into evidence without objection.

The Board heard sworn testimony from the Respondent and one witness for the Bar, Elcin Mehyar. The Board considered the testimony of witnesses and the exhibits introduced by the parties; heard arguments of counsel; and met in private to consider its decision.

I. THE BOARD'S FINDINGS

The Board makes the following findings of fact on the basis of clear and convincing evidence:

1. At all times relevant hereto the Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been 6410 Lureta Ann Lane, Springfield, Virginia 22150. He has also been licensed to practice law in the District of Columbia, Maryland, and Texas. The Respondent received proper notice of this proceeding as required by Part Six, §IV, ¶ 13-12.C and 13-18.A. of the Rules.

2. The VSB issued a subpoena *duces tecum* to the Respondent on September 28, 2020 requiring him to produce his file, records, reports, documents, and electronically stored information related to his representation of Elcin Mehyar ("Ms. Mehyar") as part of an investigation of possible misconduct in VSB Docket No. 21-051-119428. (VSB Exhibit 4.)

3. The Board entered an interim suspension order for Respondent's non-compliance with the Subpoena *duces tecum* on November 13, 2020. (VSB Exhibit 6.)

4. On November 13, 2020, the Clerk sent to the Respondent, by certified mail, the Interim Suspension Order along with forms for compliance with Part Six, Section IV, Paragraph 13-29 for the notification to his clients, the courts, and opposing counsel of his suspension. (VSB Exhibit 7.)

5. Respondent remains counsel of record for Ms. Mehyar, in an active civil suit in the Fairfax Circuit Court, Case No. CL-2018-0012529. (VSB Exhibit 10.)

6. Respondent did not give Ms. Mehyar notice that his license was suspended or that he was no longer practicing law.

7. Respondent has not produced any evidence of his compliance with the requirements of Paragraph 13-29 as a result of his interim suspension, including proof that he provided notice of his suspension by certified mail to his other clients, opposing counsel, and presiding judges within 14 days of the effective date of his suspension, or proof thereof to the Virginia State Bar within 60 days of the suspension.

Following deliberations on the testimony, exhibits, and argument of counsel, the Board determined that the Respondent has not proved by clear and convincing evidence that he has complied with Part Six, § IV, ¶ 13-29 of the Rules as required by the Interim Suspension Order entered November 13, 2020.

II. SANCTION

In the sanction phase of the hearing the Board received further evidence and argument as to the appropriate sanction to be imposed, including any aggravating and mitigating factors, based upon its finding that the Respondent had failed to prove his compliance with Paragraph 13-29. The Board admitted into evidence a certification of Respondent's disciplinary record (VSB Exhibit 11) and two orders reflecting disciplinary action taken against the Respondent by the United States

District Court for the District of Maryland and by the District of Columbia Court of Appeals. (VSB Exhibits 12 and 13, respectively). These three exhibits reflect that the Respondent has been indefinitely suspended from the practice of law in Virginia, Maryland, and the District of Columbia. The prior disciplinary offense is an aggravating factor.

The witness testimony established that because Respondent failed to notify Ms. Mehyar of Respondent's suspension, her ability to secure another attorney to represent her was impaired. Although Respondent's failure to notify Ms. Mehyar might be attributed in part to personal or emotional problems Respondent was experiencing, the extent of those problems was not supported by any corroborating evidence and was, therefore, not found to be a significant mitigating factor.

III. DISPOSITION

The Board recessed to deliberate what sanction to impose upon its findings of noncompliance by Respondent. The Board finds that Respondent has failed to prove by clear and convincing evidence that his license to practice law in the Commonwealth of Virginia should not be further suspended or revoked and, accordingly, it is ORDERED that the Respondent, OlaDipo Akinwunmi AkinDeko, is suspended from the practice of law for six months, effective June 25, 2021.

It is further ORDERED that, as directed in the Board's June 25, 2021 Summary Order in this matter, Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules. The Respondent shall 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. 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 within 14 days of the

effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective date of the suspension that such notices have been timely given and such arrangements 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 suspension, he shall submit an affidavit to that effect to the Clerk within 60 days of the effective date of the suspension. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 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 mail to his address of record with the Virginia State Bar at 6410 Lureta Anne Lane, Springfield, Virginia 22150, and by electronic mail to Bernard J. DiMuro, Esq., counsel for Respondent, 1101 King Street, Suite 610, Alexandria, Virginia 22314, and to Renu M. Brennan, Bar Counsel.

ENTERED this 3rd day of July 2021.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Yvonne S. Gibney, Chair