

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF TIMOTHY MARTIN BARRETT

VSB DOCKET NO. 02-022-1069 and 02-022-1070

**ORDER OF SUSPENSION**

THIS MATTER first came on to be heard Friday, July 23, 2004, at 9:00 a.m., before a panel of the Virginia State Bar Disciplinary Board convening at the State Corporation Commission, Court Room A, Tyler Building, 1300 East Main Street, Second Floor, Richmond, Virginia, 23219. The Board was comprised of Robert L. Freed (Chair), V. Max Beard (Lay Member), Russell W. Updike, William C. Boyce, Jr. and David R. Schultz. Proceedings in this matter were transcribed by Valarie L. Schmit, a registered professional reporter, P.O. Box 9349, Richmond, Virginia, 23227, telephone number (804) 730-1222. The court reporter was sworn by the Chair, who then inquired of each member of the Board as to whether any member had any personal or financial interest or bias which would interfere with or influence that members determination of the matter. Each member, including the Chair, answered in the negative; the matter proceeded. The Respondent, Timothy Martin Barrett, was represented by his counsel, Michael L. Rigsby, Esquire, and was present in person. The Virginia State Bar appeared by its counsel, Richard E. Slaney, Esquire.

The findings of fact found at the hearing of July 23, 2004, are set forth in the Order of the Disciplinary Board entered August 5, 2004. The Board determined that the Bar proved, by clear and convincing evidence, that Respondent violated Rules 3.1, 3.4(i), 3.4(j), 3.5(e), 4.3(b), and 8.4(b). Based upon its findings that Respondent was in violation of the rules set forth above, the

Disciplinary Board suspended Respondent's license to practice law in the Commonwealth of Virginia for a period of three (3) years effective July 23, 2004. These determinations by the Board were appealed by Respondent to the Supreme Court of Virginia.

The Supreme Court of Virginia rendered its Opinion on April 22, 2005. The Court's opinion upheld the findings of the Disciplinary Board that Respondent violated Rules 3.1, 3.4(i), 3.5(e), and 3.4(j), in part. The Court's opinion reversed the findings of the Disciplinary Board that Respondent violated Rules 4.3(b), 8.4(b), and 3.4(j), in part. Because the Supreme Court's Opinion upheld in part and reversed in part the decision of the Disciplinary Board, it remanded the matter back to the Disciplinary Board to reconsider the three year suspension imposed upon Respondent.

On September 2, 2005, this matter came to be heard solely upon the issue of what sanction to impose upon Respondent for the violations affirmed by the Supreme Court of Virginia. The members of the Disciplinary Board consisted of Robert L. Freed (Chair), V. Max Beard (Lay Member), Russell W. Updike, William C. Boyce, Jr. and David R. Schultz. The Bar was represented by Richard E. Slaney, Esquire. The court reporter for this hearing was Dona T. Chandler, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, Telephone (804) 730-1222. The Respondent appeared and represented himself. The Chair polled the members of the Board 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 Board, to which inquiry each member responded in the negative.

On August 24, 2005, Respondent filed a Notice and Motion to Strike the Testimony of Ms. Valerie Jill Barrett from the record. Said Motion was overruled by the Chair, with all other

Board members concurring in the decision.

On August 24, 2005, Respondent filed a Notice and Motion for Certain Board Members to Recuse Themselves on the Grounds of Lack of Impartiality. Said Motion was overruled by the Chair, with all other Board members concurring in the decision.

The remand being for the determination of sanction only, no additional evidence was received by the Board.

The Board heard argument from the Bar and Respondent, and then recessed to deliberate what sanction to impose upon its finding of misconduct by Respondent for his violations of Rules 3.1, 3.4(i), 3.5(e), and 3.4(j), in part. After due deliberation, the Board unanimously determined that the rule violations merit a twenty-seven (27) month suspension of Respondent's license to practice law in the Commonwealth of Virginia, effective September 2, 2005.

Accordingly, it is ORDERED that the license to practice law in the Commonwealth of Virginia of Respondent, Timothy Martin Barrett, shall be suspended for a period of twenty-seven (27) months effective September 2, 2005.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Order to Respondent at his address of record with the Virginia State Bar, being 295 Bendix Road, Suite 200, Virginia Beach, Virginia, 23452, by certified mail, return receipt requested, and by regular mail to Richard E. Slaney, Esquire, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia, 23219.

It is further ORDERED that pursuant to Part Six, §IV, Paragraph 13(B)(8)(c) 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 Respondent must comply with the requirements of Part Six, §IV, ¶13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the twenty-seven (27) month loss of 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 in his care in conformity with the wishes of his clients. Respondent shall give such notice within fourteen (14) days of the effective date of the suspension, and make such arrangements which are required within forty-five (45) days of the effective date of the suspension. The Respondent shall also furnish proof to the bar within sixty (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 of the Disciplinary System of the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13(M) shall be determined by the Virginia State Bar Disciplinary Board which may impose a sanction of revocation or further suspension for failure to comply with the requirements of this subparagraph.

ENTERED this 14<sup>th</sup> day of September, 2005



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Robert L. Freed, Chair  
VIRGINIA STATE BAR DISCIPLINARY BOARD