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VIRGINIA:

VIRGINIA STATE BAR

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

VIRGINIA STATE BAR, EX REL
TENTH DISTRICT COMMITTEE,

Petitioner

v.

Misc. Law No. 48700

ROBERT B. MACHEN, ESQUIRE,

Respondent

FINAL ORDER

THIS MATTER came on to be heard upon the Complaint and Petition for Rule to Show Cause filed by the Virginia State Bar against the Respondent and the Rule to Show Cause entered April 29, 1992 by Circuit Court Judge Richard J. Jamborsky. Pursuant to Va. Code §54.1-3935, a Three Judge Court was appointed by the Chief Justice of the Supreme Court of Virginia: Thomas D. Horne, Chief Judge Designate; Dixon L. Foster, Judge Designate and Robert K. Woltz, Judge Designate. The Virginia State Bar was represented by James M. McCauley, Assistant Bar Counsel. The Respondent, Robert B. Machen, appeared in person and was represented by counsel, Stephen A. Armstrong, Esquire. The Three Judge Court heard testimony and received exhibits over the course of seven days, September 10-11, 1992; October 30, 1992 and January 4-7, 1993. After due consideration of the testimony of the witnesses and the exhibits introduced in this proceeding, the Three-Judge Court makes the following findings with respect to the Charges of Misconduct certified by the Tenth District Committee which are the subject of the Bar's complaint:

As to the Charges of Misconduct specified under paragraph 23 of the Certification, in which it is alleged by the Bar that the Respondent

violated DR 4-101 of the Code of Professional Responsibility, this Court finds that the Bar has failed to prove by clear and convincing evidence that an attorney-client relationship existed between Robert Machen and Evelyn Wilson and, therefore, the charges under paragraph 23 are hereby **DISMISSED WITH PREJUDICE.**

As to the Charges of Misconduct brought under paragraph 24 of the Certification, this Court finds that the Bar has failed to prove by clear and convincing evidence that the Respondent engaged in any conspiracy to injure Evelyn Wilson in her trade, occupation or business with Potomac Party Cruises, Inc. or that Machen was involved in any conspiracy with T. C. Wilson or Alvin Futrell to induce them to breach their buy-sell agreements with Evelyn Wilson. Accordingly, the Charges of Misconduct brought under paragraph 24 are hereby **DISMISSED WITH PREJUDICE.**

The Court further finds that the Bar has failed to prove by clear and convincing evidence the Charges of Misconduct brought under paragraphs 25, 26 and 27 of the Certification and, therefore, those charges are likewise **DISMISSED WITH PREJUDICE.**

The Charges of Misconduct brought under paragraphs 28 and 31 of the Certification were withdrawn by the Virginia State Bar and are hereby **DISMISSED WITH PREJUDICE.**

The Court finds that the Charges of Misconduct brought under paragraph 29 of the Certification were not proven by clear and convincing evidence and are, therefore, **DISMISSED WITH PREJUDICE.**

With regard to the Charges of Misconduct brought under paragraph 30 of the Certification, this Court finds by clear and convincing evidence that Robert Machen by his actions as a director and an attorney for Potomac Party Cruises violated DR 1-102(A)(4) in that he engaged in

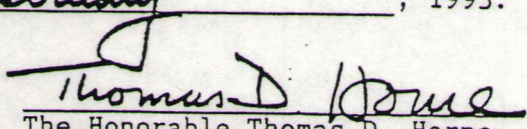
conduct for personal advantage, involving deceit that reflects adversely on his fitness to practice law. Even if the Respondent did not serve as counsel for Potomac Party Cruises, Inc. as a lawyer he is held to a higher standard of forthrightness and honesty than the non-lawyers with whom he dealt. The Charges of Misconduct as to the remaining Disciplinary Rules cited under paragraph 30 were not proven by clear and convincing evidence and are accordingly DISMISSED WITH PREJUDICE.


Having found that Robert Machen engaged in misconduct in violation of DR 1-102(A)(4) of the Code of Professional Responsibility, it is the opinion of this Court that he should be REPRIMANDED for such misconduct and he hereby is so REPRIMANDED.

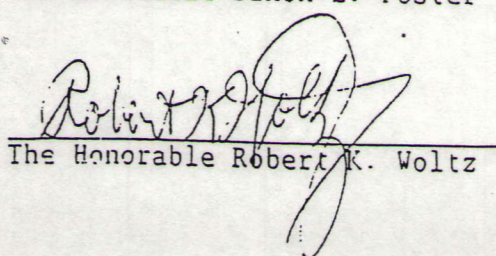
And it is further ordered that pursuant to the Rules of the Supreme Court of Virginia, Part 6, §IV, ¶13(K)(10) the Clerk of the Disciplinary System shall assess costs against the Respondent-attorney.

And it is further ordered that the Clerk of the Circuit Court issue certified copies of this Order to counsel of record in this proceeding and remove this matter from its docket and place it among the ended causes.

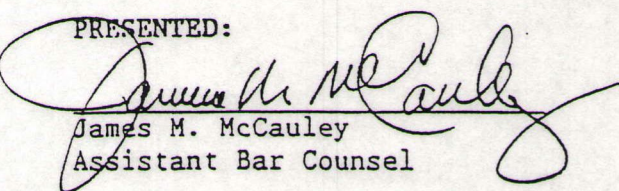
Entered this 1st day of February, 1993.


The Honorable Thomas D. Horne

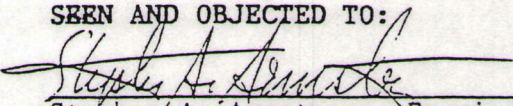

The Honorable Dixon L. Foster


The Honorable Robert K. Woltz

PRESENTED:

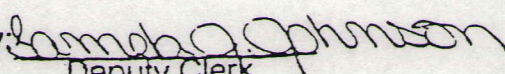

James M. McCauley
Assistant Bar Counsel

SEEN AND OBJECTED TO:


Stephen A. Armstrong, Esquire
Counsel for Respondent

EXCEPTIONS ARE ATTACHED

A COPY TESTE:
JOHN T. FREY, CLERK

By: 
Deputy Clerk