

STATE OF WEST VIRGINIA

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At a Regular Term of the Supreme Court of Appeals, continued transactional case, Kanawha County, on February 7, 2025, the following order was made and entered:

Office of Lawyer Disciplinary Counsel,
Petitioner

vs.) No. 24-263

Phillip S. Isner, a member of the
West Virginia State Bar,
Respondent

CONTEMPT AND SUSPENSION ORDER

On May 10, 2024, the petitioner Office of Lawyer Disciplinary Counsel (ODC), by Rachael L. Fletcher Cipoletti, Chief Lawyer Disciplinary Counsel, filed a petition for a rule to show cause to be directed against the respondent Phillip S. Isner, to show cause as to why he should not be held in contempt and why the respondent should not be suspended immediately and indefinitely until he has demonstrated full compliance with this Court's order entered on June 9, 2023, in a disciplinary action against the respondent in *Lawyer Disciplinary Board v. Phillip S. Isner*, No. 22-570.

By order entered on June 9, 2023, the respondent was publicly reprimanded and the following conditions were imposed on the respondent: (1) The respondent's practice of law was ordered to be supervised for a period of two years by an attorney agreed upon by the ODC and Respondent, and the respondent was ordered to meet with his supervising attorney every two weeks with the goal of the supervised practice being to improve the quality and effectiveness of his law practice to the extent that his sanctioned behavior is not likely to reoccur; (2) The respondent was to complete an additional six hours of continuing legal education (CLE), over and above the mandatory CLE hours required in the 2022-2024 reporting period, in the area of ethics and law office management within twelve months from June 9, 2023; and (3) The respondent was ordered to pay the costs of the disciplinary proceeding pursuant to Rule 3.15 of the Rules of Lawyer

Disciplinary Procedure. The certificate of expenses filed with the Court shows costs in an amount of \$1,596.48.

In its petition for a rule to show cause in contempt, the ODC argued that the respondent had a remaining balance of \$1,096.48 and had not communicated with ODC regarding additional payments nor entered into a payment plan. The ODC further argued that the respondent had not provided proof of compliance with the CLE requirement and had not complied with the supervision requirement. According to the ODC, the respondent had entered into a supervision agreement in August of 2023, and supervision reports were to be submitted to the ODC monthly thereafter. The ODC asserts that as of the time of the filing of the petition for contempt only two supervision reports were submitted—September 7, 2023, and October 24, 2023.

On November 1, 2024, the Court issued a rule to show cause in contempt directed against the respondent returnable on January 28, 2025.

On January 27, 2025, Mr. Isner, self-represented, filed a response, together with a motion for leave to file the response within 48 hours of oral argument. The Court granted Mr. Isner's motion, and the response was ordered filed. In his response, the respondent argued that he had fully paid his outstanding balance of \$1,096.48. He further argued that he complied with the CLE requirement by completing a total of 25.9 CLE hours in the 2022-2024 CLE reporting period with 12 of those total hours in the area of legal ethics. Finally, the respondent asserted that his supervision reports had been emailed to the wrong email address by his supervising attorney. He claimed to have completed his supervisory meetings and that he had provided the ODC with missing reports.

On January 28, 2025, the ODC, by counsel, and the respondent, self-represented, presented oral argument.

On January 29, 2025, the respondent filed a motion to file an amended response with exhibits, together with the amended response and exhibits. On January 30, 2025, the Court granted the motion, and the amended response with exhibits was ordered filed. The exhibits show supervision reports dated May 11, 2024, June 14, 2024, August 2, 2024, September 2024, and an email sent on September 15, 2024, titled "July 2024 Supervision Report". The exhibits also include two emails sent in January 2025 from the respondent's supervising attorney to the ODC's counsel in which the supervising attorney asked that the emails be considered a "summary"

supervision report to account for all of the supervisory time from August 2023 to December 2024. The supervising attorney notes in one of the two emails that he is “happy to provide an individual report for each months [sic]” if the ODC would identify the monthly reports it did not receive.

The Court has carefully considered the petition, the appendix, the amended response, and the oral arguments of the parties. The Court agrees with the recommendation of the ODC and finds good cause to hold the respondent Phillip S. Isner in contempt for his failure to comply with this Court’s order entered on June 9, 2023, and to suspend his license to practice law in West Virginia until such time as he has demonstrated full compliance with this Court’s order.

It is ORDERED that Phillip S. Isner is held in contempt of court for his failure to comply with the CLE and supervising attorney conditions of the Court’s June 9, 2023, order in *Lawyer Disciplinary Board v. Phillip S. Isner*, No. 22-570.

It is ORDERED that Phillip S. Isner’s license to practice law in the State of West Virginia will be suspended as of February 28, 2025. He is ordered to comply with Rule 3.28 of the Rules of Lawyer Disciplinary Procedure.

It is ORDERED that Phillip S. Isner may purge himself of the contempt when he demonstrates full compliance with the Court’s June 9, 2023, order by providing written documentation of the following to the ODC:

(1) That Phillip S. Isner has completed six CLE hours in the area of legal ethics and law office management in addition to the minimum requirements of 24 CLE hours in every two-year reporting period. The respondent has demonstrated that he completed 25.9 CLE hours in the 2022-2024 reporting period with 12 of those hours in the area of legal ethics. Therefore, the respondent remains responsible for an additional 4.1 CLE hours above the 24 CLE hours required for the 2022-2024 reporting period requirements. The additional 4.1 CLE hours must be in the area of legal ethics and law office management and will not count toward the respondent’s mandatory CLE hours needed in the 2024-2026 reporting period; and

(2) That Phillip S. Isner has met with his supervising attorney as previously ordered. Separate monthly reports of the respondent’s supervising attorney, as set forth in the supervision agreement of August 2023, would demonstrate compliance with this provision. If the respondent’s supervising attorney is unable to complete separate monthly reports by February 28, 2025, then

other written documentation may be considered by the ODC if it adequately demonstrates compliance.

If the respondent demonstrates compliance to the ODC, the ODC shall immediately notify the Clerk of this Court of that compliance in writing.

It is ORDERED that Phillip S. Isner's license to practice law in the State of West Virginia will be automatically reinstated under Rule 3.31 of the Rules of Lawyer Disciplinary Procedure if he purges himself of the contempt and demonstrates full compliance as directed in this order within three months from the date of his suspension on February 28, 2025.

It is ORDERED that if Phillip S. Isner's license to practice law in the State of West Virginia is suspended for longer than three months from the date of date of his suspension on February 28, 2025, automatic reinstatement will no longer apply, and Phillip S. Isner will be required to file a petition for reinstatement in accordance with Rule 3.32 of the Rules of Lawyer Disciplinary Procedure if he seeks reinstatement.

This order constitutes final disposition, and the matter is removed from the docket of this Court.

The Clerk of this Court is directed to serve a copy of this order on the respondent, Phillip S. Isner, the Office of Lawyer Disciplinary Counsel, and the West Virginia State Bar.

A True Copy

Attest: /s/ C. Casey Forbes
Clerk of Court

