

VIRGINIA:

**BEFORE THE SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

In the Matter of Del M. Maurhine Brown

VSB Docket No. 05-021-4570

Complainant: Karen M. Forde

**SUBCOMMITTEE DETERMINATION
(PUBLIC ADMONITION WITHOUT TERMS)**

On April 7, 2006, a duly convened Second District, Section I, Subcommittee consisting of Donald C. Schultz, Esquire, Emmanuel W. Michaels, Lay Member, and Afshin Farashahi, Esquire, presiding, considered an Agreed Disposition in the above-referenced matter. It was the decision of the Subcommittee to accept the Agreed Disposition.

Pursuant to Part Six, Section IV, Paragraph 13.G.1.c (1) of the Rules of the Supreme Court of Virginia, the First District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Public Admonition:

I. FINDINGS OF FACT

1. During all times relevant hereto, the Respondent, Del M. Maurhine Brown, was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On February 16, 2005, Karen Forde paid Ms. Brown \$1,500 to assist her with the administration of her late husband's estate.
3. Ms. Brown and her client executed a fee agreement that provided for an improper "nonrefundable" retainer of \$1,500.
4. Ms. Brown explained that she was hired to review the open accounts, determine the outstanding creditors, pay estate bills and the outstanding creditors, and do a full accounting with a view toward closing the estate.
5. Ms. Brown and her client met for about four hours on February 16, 2005 and met again on March 3, 2005 for about two hours. Thereafter, they had additional meetings, but Ms. Brown made no progress in closing the estate.
6. The client left multiple telephone messages for Ms. Brown on April 20, April 22, April 28, May 2, May 17, May 19, and May 20, 2005 but received no response. She also sent Ms. Brown an e-mail on May 3, 2005 but received no response.

7. On May 23, 2005, the client sent Ms. Brown a letter detailing her frustrations with the lack of progress and her inability to contact Ms. Brown, and sent a copy to the Virginia State Bar.
8. By letters, dated May 27 and June 10, 2005, the Virginia State Bar's Intake Department asked Ms. Brown to address her client's concerns and inform the bar, but Ms. Brown did not respond to either letter.
9. The client said that she had to contact the Virginia State Bar to learn how to contact Ms. Brown, who had moved her office without informing her client.
10. On several occasions, the client made it clear to Ms. Brown that if the matter was too much to handle, she wanted Ms. Brown to let her hire a different attorney. Ms. Brown, however, persisted in staying in the case, even after becoming a full-time Assistant Public Defender.
11. Thereafter, between June 2 and July 27, Ms. Brown and her client had a series of meetings and discussions about the estate.
12. The client initiated a criminal proceeding against a debtor of the estate in the Newport News General District Court. The court delivered a summons for the client's appearance to Ms. Brown as her attorney. Ms. Brown, however, did not notify her client about the summons.
13. The client left two telephone messages for Ms. Brown on August 1, 2005 and again on August 5, 2005, but received no response.
14. By letter, dated August 23, 2005, the client terminated Ms. Brown.
15. Ms. Brown did not enforce the nonrefundable provision of her fee agreement, issuing a partial refund instead.
16. Ms. Brown acknowledged that the case was too much for her to handle.
17. At the time, Ms. Brown was occupied with an unusually heavy caseload as an Assistant Public Defender.

II. NATURE OF MISCONDUCT

The foregoing facts give rise to violations of the following Rules of Professional Conduct:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 1.4 Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

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:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

III. PUBLIC ADMONITION

Accordingly, it is the decision of the Subcommittee to impose a **Public Admonition**.

In accordance with the Rules of the Virginia Supreme Court, Part 6: §IV, ¶13(B) (8) (c) (1), the Clerk of the Disciplinary System shall assess costs.

**SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

By _____
Afshin Farashahi, Committee Chair

CERTIFICATE OF SERVICE

I certify that I have this _____ day of _____, 2006, mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a true and correct copy of the Subcommittee Determination (Public Admonition) to Del M. Maurhine Brown, the Respondent, at Post Office Box 1506, Prince George, Virginia 23875, her address of record of record with the Virginia State Bar.

Edward L. Davis
Assistant Bar Counsel