

VIRGINIA :

**BEFORE THE FOURTH DISTRICT--SECTION I SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
HENRY ST. JOHN FITZGERALD, ESQ.
VSB Docket No. 04-041-3107**

**SUBCOMMITTEE DETERMINATION
PUBLIC REPRIMAND**

On July 6, 2005, a meeting in this matter was held before a duly convened Fourth District-Section I Subcommittee consisting of Mary Ellen Craig, Esq., William P. Bock, lay member substituting from the Fourth District—Section II Committee, and David Alan Sattler, Esq., presiding, to review an Agreed Disposition reached by the parties.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, §IV, ¶13.G.1.d.(3), the Fourth District--Section I Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand, as set forth below:

I. FINDINGS OF FACT

1. At all times relevant Henry St. John FitzGerald, Esq. (hereafter "Respondent"), was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent qualified, on his own motion, before the Clerk of the Arlington County, Virginia, Circuit Court on August 27, 2002, as Administrator of the Estate of Rose Ward Sloan, his deceased cousin, who had died in December, 2000, without a will, and whose estate had not been administered.

An Administrator of an estate is not required to be an attorney and Respondent was not serving as attorney for any client in connection with the Estate.

3. A First Account was due to be filed with the Commissioner of Accounts on December 19, 2003. The account not having been filed with the Commissioner, he wrote to the Respondent on January 5, 2004, instructing the Respondent to file the Account within 30 days.

4. After 30 days had elapsed without the required Account having been filed, the Commissioner issued a summons to the Respondent on February 13, 2004, and caused it to be served by the Sheriff of Arlington County, Virginia. The summons required the Respondent to produce before the Commissioner "a full statement of all receipts and disbursements, as such Administrator, accompanied by the vouchers, since August 27, 2002, within thirty days of the date of the service of this SUMMONS upon the fiduciary."

5. The Respondent failed to comply with the summons, which had been served on March 4, 2004. On April 6, 2004, the Commissioner again wrote to the Respondent, and requested that he file the First Account by April 15, 2004. The Respondent again failed to respond. On April 20, 2004, the Commissioner reported these events to the Court, and sought entry of an Order directing the Respondent to show cause why he failed to file the First Account, why he should not be fined, held in contempt of court, and removed as Administrator of the said Estate.

6. The Respondent filed a First Account on or about June 3, 2004, but such account was incomplete. As of May 16, 2005, the First Account has not been revised, as required.

7. A beneficiary of the Estate petitioned the Court for Respondent's removal as Administrator based upon, among other things, the Respondent's failure to make a court-ordered distribution of assets. On or about June 30, 2004, the Respondent presented a check to the beneficiary's counsel in the sum of \$15,000.00. Due to a Reclamation Order issued by the U. S.

Treasury, seizing approximately \$19,500.00 from the Estate's bank account without other notice to Respondent, for retirement benefits deposited into Rose Ward Sloan bank account eighteen months prior to Respondent's appointment as Administrator, that \$15,000.00 check was drawn against insufficient funds. The Respondent could have known, had he been diligent in following the monthly balances in that account reported by the bank, that such check would not be honored if presented to the bank on which it was drawn.

8. The Respondent engaged certified public accountants to complete the accountings for the Estate, but has failed to timely deliver to those certified public accountants the documents required by them to prepare required accountings. The Respondent failed to meet deadlines established by the Commissioner's office. Such failures include a December 3, 2004, deadline, to which the Respondent agreed with the Commissioner of Accounts and the beneficiary's attorney, for making final distribution of the assets of the Estate and for filing a final accounting. Adjudications of certain matters set for hearing were deferred on successive occasions based upon promises and representations made to the Commissioner by the Respondent.

II. NATURE OF MISCONDUCT

The Subcommittee finds that the following Rule of Professional Conduct has been violated:

RULE 1.3 Diligence

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

Although not representing any client as Administrator, Respondent nevertheless should have acted with reasonable diligence and promptness in carrying out his duties as Administrator.

III. PUBLIC REPRIMAND

Accordingly, it is the decision of the Subcommittee to impose a Public Reprimand on Respondent, Henry St. John FitzGerald, Esquire, and he is so reprimanded.

IV. COSTS

Pursuant to Part Six, § IV, ¶13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

FOURTH DISTRICT - SECTION I SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By  _____
David Alan Sattler
Chair/Chair Designate

CERTIFICATE OF SERVICE

I certify that I have this 14th day of July, 2005, mailed a true and correct copy of the Subcommittee Determination (PUBLIC REPRIMAND) by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Respondent, Henry St. John FitzGerald, Esq., at Suite 800, 2200 Wilson Boulevard, Arlington, Virginia 22201, his address of record with the Virginia State Bar.

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SETH M. GUGGENHEIM
Assistant Bar Counsel