

VIRGINIA:

BEFORE THE THIRD DISTRICT COMMITTEE, SECTION TWO
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
AUDREY FREEMAN JACOBS

VSB Docket No. 05-032-0961

DISTRICT COMMITTEE DETERMINATION
(PUBLIC ADMONITION WITH TERMS)

On April 8, 2005, a hearing in this matter was held before a duly convened Third District Committee, Section Two, panel consisting of Coral C. Gills, Lay Member; Mary K. Owens, Esq.; John D. Sharer, Esq.; J. Tracy Walker, IV, Esq. and William J. Viverette, Esq., Vice Chair, presiding. Mr. Sharer is a member of the Third District Committee, Section III, and participated pursuant to Rule of Court, Part Six, Section IV, Paragraph 13.B.6.i.

Aubrey Freeman Jacobs appeared in person pro se. Deputy Bar Counsel Harry M. Hirsch appeared as counsel for the Virginia State Bar.

Pursuant to Rule of Court, Part 6, Section IV, Paragraph 13.H.2.c. of the Rules of the Virginia Supreme Court, the Third District Committee, Section Two, of the Virginia State Bar hereby serves upon the Respondent the following Public Admonition with Terms:

I. FINDINGS OF FACT:

1. At all times relevant hereto the Respondent, Audrey Freeman Jacobs [Jacobs], has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Jacobs qualified as the administrator of an estate on March 5, 1999. Jacobs is a daughter of the deceased.
3. An inventory of the estate was due on July 5, 1999.

4. On August 6, 1999, the commissioner of accounts in Henrico County, John Page Rawlings [Rawlings], issued a letter to Jacobs indicating the inventory was delinquent and requesting an inventory be filed within thirty days of the date of the letter.

5. On November 11, 1999, Rawlings issued a summons to Jacobs for the filing of an inventory within thirty days of service. The summons was served personally on Jacobs on November 18, 1999.

6. Jacobs filed an inventory for the estate on December 17, 1999.

7. A first accounting was due for the estate on July 5, 2000.

8. On August 30, 2000, Rawlings sent Jacobs a letter indicating the first accounting was delinquent and requesting that it be filed within thirty days of the date of the letter.

9. On October 9, 2000, Rawlings issued a summons to Jacobs for the filing of a first accounting within thirty days of service. The summons was served by posted service on October 13, 2000.

10. On November 17, 2000, Rawlings called Jacobs and left a message indicating he was going to prepare a show cause and report Jacobs to the Virginia State Bar as required by statute. Jacobs called Rawlings' office the same day and indicated she would file the accounting by November 21, 2000.

11. On November 24, 2000, Jacobs filed a first accounting.

12. A second accounting was due for the estate on August 30, 2001.

13. On September 12, 2001, Rawlings sent Jacobs a letter indicating the second accounting was delinquent and requesting that it be filed within thirty days of the date of the letter.

14. On October 16, 2001, Jacobs called Rawlings' office indicating she had completed the accounting and would mail it that date.

15. A second accounting was received by Rawlings' office on October 24, 2001.

16. A third accounting was due for the estate on December 31, 2002.

17. On January 10, 2003, Rawlings sent Jacobs a letter indicating the third accounting was delinquent and requesting that it be filed within thirty days of the letter.

18. Rawlings gave Jacobs an additional thirty days within which to file the third accounting.

19. On February 25, 2003, Rawlings issued a summons for a third accounting to be filed within thirty days of service. The summons was personally served on Jacobs on March 3, 2003.

20. Jacobs filed a third accounting on April 3, 2003.

21. By letter dated June 24, 2003, Rawlings wrote Jacobs indicating that he expected the next accounting to be a final accounting, enclosing a statement for audit fees on the last accounting and enclosing an invoice for personal delinquent fees totaling \$300.00.

22. A fourth accounting was due for the estate on May 1, 2004.

23. Rawlings wrote Jacobs a letter dated May 13, 2004, indicating that the accounting due on May 1, 2004 was past due and requesting that it be filed within thirty days of the date of the letter.

24. On June 7, 2004, Jacobs wrote to Rawlings and requested a forty-five day filing extension which was granted.

25. On August 2, 2004, Rawlings issued a summons for a fourth and final accounting to be filed within thirty days of service. The summons was personally served on August 6, 2004.

26. On September 13, 2004, a show cause order was entered in the Circuit Court of Henrico County stating a hearing date of October 29, 2004.

27. Jacobs filed a fourth accounting on September 15, 2004.

28. On October 26, 2004, Rawlings' office sent Jacobs a letter indicating the last accounting was ready for approval but payment was needed of the commissioner of accounts' fees, Clerk of Court fees, and all delinquent charges and court costs.

29. The show cause was dismissed on November 5, 2004.

30. On November 9, 2004, Rawlings sent Jacobs an invoice for \$232.00 in fees due from the estate and \$485.00 in costs due from Jacobs personally. A second invoice notice was sent to Jacobs on December 16, 2004.

31. On December 22, 2004, Rawlings wrote Jacobs indicating, *inter alia*, that he approved the latest accounting, that the latest accounting was not a final accounting, that a final accounting was due to be filed by February 22, 2005 unless Jacobs can explain why she cannot close the estate.

II. NATURE OF MISCONDUCT:

The Third District Committee, Section Two, determined that the bar proved by clear and convincing evidence that Audrey Freeman Jacobs violated the following provisions of the Virginia 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.

The Third District Committee, Section Two, determined that the bar did not prove by clear and convincing evidence violations of DR 6-101(A) and DR 6-101(B) of the Virginia Code of Professional Responsibility.

III. PUBLIC ADMONITION WITH TERMS:

Accordingly, it is the decision of the Third District Committee, Section Two, to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for the disposition of a Public Admonition with Terms of this complaint. The terms and conditions, which shall be met by the dates stated are the following:

1. By August 1, 2005, the Respondent shall complete and close the administration of the estate with the approval of the Commissioner of Accounts and provide bar counsel with written evidence of said approval.

2. By May 2, 2005, the Respondent shall institute and maintain a calendar or docket control system which shall insure that she reviews the status of all pending matters periodically, and remind her in advance of key deadlines and other obligations; and Respondent shall provide bar counsel with a detailed written description of the docket control system, and shall certify in writing that she is using said system in her office.

3. By October 3, 2005, the Respondent shall complete six (6) hours of mandatory continuing legal education on the subject of estates administration. Said hours may be counted for purposes of mandatory continuing legal education requirements.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met as stated the Third District Committee, Section Two, shall impose a Public Reprimand.

Pursuant to Rules of Court, Part Six, Section IV, Paragraph 13.B.8.c., the Clerk of the Disciplinary System shall assess costs.

THIRD DISTRICT COMMITTEE,
SECTION TWO, OF THE
VIRGINIA STATE BAR

By

William J. Viverette
Vice Chair

CERTIFICATE OF SERVICE

I certify that on _____, I caused to be mailed by Certified Mail, Return Receipt Requested, a true copy of the District Committee Determination (Public Admonition with Terms) to the Respondent, Audrey Freeman Jacobs, 2214 East Marshall Street, Richmond, VA 23223-7059, her last address of record with the Virginia State Bar.
