

VIRGINIA:

BEFORE THE FIFTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
VINCENT MARK AMBERLY

VSB Docket No. 16-053-105949

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On February 07, 2017 a meeting was held in this matter before a duly convened Fifth District Section III Subcommittee consisting of Mark A. Ausbrooks, Timothy Mark Purnell, and Teresa Ann Polinske. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4. of the Rules of the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Elizabeth K. Shoenfeld, Assistant Bar Counsel, and Vincent Mark Amberly, Respondent, *pro se*.

WHEREFORE, the Fifth District Section III Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, Vincent Mark Amberly ("Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent represented Dr. Yvonne Petrie and her clinic, Virginia Integrated Health, LLC ("VIH"). On or about May 30, 2014, Complainant Charles Stevens posted the following review of Dr. Petrie and VIH on Yelp, an online review site.



Chuck S.
Falls Church, VA
0 friends
74 reviews



5/30/2014

First to Review

Gave 1 star only because there is no 0 star setting. Went to Dr Petrie in response to a advertisement for diabetes treatment which claimed that the disease could be reversed. Enjoyed a luncheon and presentation which caused me to sign up and pay for an initial consultation. I wanted to believe what Dr Petrie said and completed a detailed patient history prior to our first one-on-one meeting. At that time, she wanted \$6,500 front money for a six month course of treatment and the clouds of doubt began to gather. A quick Internet search reveals that Dr Petrie received a disciplinary action from the Virginia Board of Medicine in 2014 which included suspension of her license for six months minimum and a \$25,000 fine. The board's findings of fact included that she "advertised and/or represented her services in a manner that is false, deceptive, and misleading". She is also listed on the Fairfax County Consumer Protection website as engaging in false and unauthorized billing practices.

Enough said. Avoid this doctor, her Virginia Integrative Health, and Virginia Functional Medicine practices like the plague. You can't run away far enough or fast enough.

3. Separately, VIH brought a lawsuit against former patient Kyle Havard based in part on Mr. Havard's negative review on Yelp. On April 5, 2016, Mr. Stevens testified as a fact witness at the trial of this matter. During his testimony, Mr. Stevens said that VIH had billed his wife's insurance company for an office visit despite the fact that his wife had never been a patient of VIH.
4. Two days later, Respondent wrote Mr. Stevens a letter in which he said that his testimony was "clearly false in regard to my clients." After explaining why he believed Mr. Stevens's testimony was false, Respondent wrote:

My clients have requested that I proceed with a defamation case against you as well as seeking to press perjury charges against you. Before I proceed with litigation, I am writing you in an attempt to resolve and settle your defamation and perjury in an amicable and acceptable manner to all parties involved.
5. Mr. Stevens filed a complaint with the Virginia State Bar ("VSB"). In his response to the complaint, Respondent said that the purpose of his letter was to "remind Mr. Stevens of some of the inaccuracies in his testimony at trial, and attempt to resolve any differences between him and my clients without going to trial."
6. Respondent also said that he had used similar language "on numerous occasions with other potential adversaries." When asked to provide specific examples, Respondent provided the VSB with more than 30 other letters.

7. One of the letters Respondent provided related to the purchase of a dry cleaning franchise by Respondent's client. Respondent asserted that the seller had failed to make required disclosures and the omissions had damaged his client. After demanding a settlement of either \$550,000 or the sale of the business for \$4 million, Respondent stated:

The misrepresentations and material omissions made by DDF were important factors in our clients' decision to purchase a Dryclean Depot franchise. While I am sure that the FTC [Federal Trade Commission], Maryland, Virginia and the other states where DDF is legally required to register its UFOC [Uniform Franchise Offering Circular] would be very interested in learning of the above information about DDF, this would not resolve our clients' problems nor come close to making them whole. Therefore, for settlement purposes only, our clients would agree not to contact any state or federal governmental agencies in exchange for a full refund of the damages outlined in this letter. Our clients are also prepared to sign a nondisclosure agreement regarding the settlement.

8. Another letter related to the purchase of a Kumon franchise by Respondent's client. Respondent asserted that Kumon violated immigration laws, Federal Trade Commission rules and federal and state privacy laws. He made a demand that included rescinding the franchise agreement and paying his client \$30,000, plus attorney's fees and costs. After conveying this demand, Respondent stated:

The material omission made by Kumon is not providing our clients with a UFOC was an important factor in their decision to purchase a Kumon franchise. The FTC, Michigan and the other states where Kumon is legally required to register its UFOC would surely be interested in learning of the above information about Kumon (and this information could well lead to regulatory enforcement action against Kumon). In addition, Kumon's violations of other federal laws, as outlined above, could result in regulatory and/or criminal action against Kumon by the appropriate enforcement authorities. However, pursuing these options would not resolve our clients' problems nor come close to making them whole. Therefore, for settlement purposes only, our clients would agree not to contact any state or federal governmental agencies in exchange for a full refund of the damages outlined in this letter. Our clients are also prepared to sign a nondisclosure agreement regarding the settlement.

II. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(i) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

III. PUBLIC REPRIMAND WITH TERMS

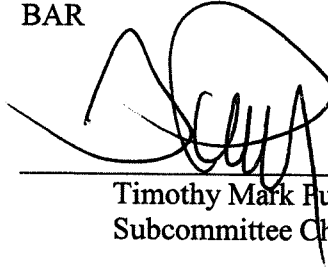
Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are as follows:

Respondent is placed on probation for a period of two (2) years commencing upon the issuance of a final order approving this agreed disposition. During such probationary period, Respondent will not engage in professional misconduct as defined by the Virginia Rules of Professional Conduct or the disciplinary rules of any other jurisdiction in which Respondent is admitted to practice law. Any final determination that Respondent engaged in professional misconduct during this probationary period made by a District Subcommittee, District Committee, the Disciplinary Board, a Three-Judge Panel or the Supreme Court of Virginia shall conclusively be deemed to be a violation of this Term.

If Respondent violates his probation, he agrees that the District Committee shall issue a Certification for Sanction Determination pursuant to Part 6, § IV, ¶ 13-15.G of the Rules of the Supreme Court of Virginia. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed pursuant to ¶ 13-9.E of the Rules of the Supreme Court of Virginia.

Pursuant to Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

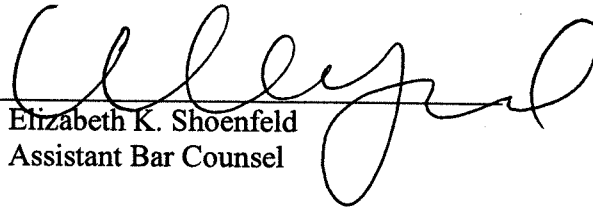
FIFTH DISTRICT SECTION III
SUBCOMMITTEE OF THE VIRGINIA STATE
BAR



Timothy Mark Furnell
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on 2/21/17, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to Vincent Mark Amberly, Respondent, at Amberly Law, 129 Harrison Street, NE, Leesburg, VA 20176, Respondent's last address of record with the Virginia State Bar.



Elizabeth K. Shoenfeld
Assistant Bar Counsel