

VIRGINIA:

BEFORE THE THIRD DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

RECEIVED

APR 2 2010

IN THE MATTER OF
JENNY SUSAN BARONE

VS B Docket No. 08-032-071996

VS B CLERK'S OFFICE

SUBCOMMITTEE DETERMINATION
(PUBLIC ADMONITION WITHOUT TERMS)

On March 19, 2010, a meeting in this matter was held before a duly convened Third District Subcommittee consisting of Coral C. Gills, Lay Member; Martin D. Wegbreit, Esq.; and Cliona M. B. Robb, Esq., Vice Chair, presiding.

Pursuant to Part 6, Section IV, Paragraph 13-15.B.4. of the Rules of the Virginia Supreme Court, the Third District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Public Admonition Without Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Jenny Susan Barone [Barone], has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. By letter dated July 25, 2007, Barone sent a letter to her clients informing them that she was closing her law office effective August 13, 2007. The letter contained, *inter alia*, the following language:

Your information will thereafter be at the offices of Jean Hovenden and John Roberts if you have not finalized your case with us. All bankruptcy clients will please call Attorney Jean Hovenden at (phone number) for any further information.

3. No opportunity was provided in the July 25, 2007, letter for a client to obtain his or her choice of counsel.
4. As of the date of the aforesaid letter, Barone represented Complainant William Carver [Carver] in a Chapter 13 bankruptcy pending in the U.S. Bankruptcy Court, Eastern District of Virginia, Richmond [case]. In the case, a hearing was set for August 14, 2007, on a motion by the trustee to dismiss based upon failure to make plan payments.

5. On August 14, 2007, the motion to dismiss was withdrawn. According to Barone, she had worked out the underlying problem. According to Carver's mother, she had provided copies of the payments in question to the trustee.
6. Barone did not withdraw from the case. On information and belief, Hovenden did not make an appearance in the case.
7. On August 14, 2007, Barone closed her attorney trust account and moved the balance of \$1,844.31 into her personal account. According to Barone, she closed the account having received advice to immediately close her corporate business entity, and she did not want to have an active corporate trust account for an entity that no longer existed.
8. The balance transferred from the trust account to the personal account included funds for costs and unearned fees.
9. According to Barone, she refunded unearned fees and disbursed costs.
10. On information and belief, the case was subsequently dismissed in 2010 at the request of the client.
11. Barone has no prior disciplinary record.

II. NATURE OF MISCONDUCT

Such conduct by Jenny Susan Barone constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:
 - (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
 - (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

RULE 1.16 Declining Or Terminating Representation

- (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:
 - (1) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is illegal or unjust;
 - (2) the client has used the lawyer's services to perpetrate a crime or fraud;
 - (3) a client insists upon pursuing an objective that the lawyer considers repugnant or imprudent;
 - (4) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
 - (5) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
 - (6) other good cause for withdrawal exists.
- (c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable rules of court. In any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.
- (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

III. PUBLIC ADMONITION WITHOUT TERMS

Accordingly, it is the decision of the subcommittee to impose a Public Admonition Without Terms and Jenny Susan Barone is hereby so admonished.

Pursuant to Paragraph 13-9.E. of the Rules of Court, the Clerk of the Disciplinary System

shall assess costs.

THIRD DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By: Cliona M. B. Robb
Cliona M. ~~JB~~ Robb, Vice Chair

CERTIFICATE OF MAILING

I certify that on April 2, 2010, I caused to be mailed by Certified Mail, Return Receipt Requested, a true and complete copy of the Subcommittee Determination (Public Admonition Without Terms) to Jenny Susan Barone, Respondent, at 2700 Hilliard Road, Richmond, VA 23228-4467, Respondent's last address of record with the Virginia State Bar.

Cliona M. B. Robb