

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
LARRY CECIL BROWN, JR.**

VSB Docket No. 07-053-2705

MEMORANDUM ORDER

This matter came on February 15, 2011, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent, Larry Cecil Brown, based upon the Certification of a Fifth District—Section III Subcommittee of the Virginia State Bar. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Mr. W. Jefferson O’Flaherty, lay member, Richard J. Colten, Michael S. Mulkey, Tyler E. Williams, III, and William E. Glover presiding.

Seth M. Guggenheim, representing the Bar, and Bernard J. DiMuro, representing the Respondent, and Larry Cecil Brown, Jr., Respondent, presented an endorsed Agreed Disposition, entered into on February 11, 2011, reflecting the terms of the Agreed Disposition. The court reporter for the proceeding was Terry S. Griffith, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222.

Having considered the Certification and the Agreed Disposition, it is the unanimous decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

1. At all times relevant to the conduct set forth herein, Larry Cecil Brown, Jr., (“Respondent”) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about February 8, 2006, Mr. Jose N. Ramos engaged the Respondent to represent his son, Walter Ramos Lara. According to the promissory note proffered by the

Respondent to the Complainant the “nature of the representation” was “Habeas Corpus or Appeal But Habeas Corpus will be likely route. If Habeas Corpus then no appeal – if appeal then through Petition to Supreme Court of Virginia only”.

3. The face amount of the promissory note was \$15,000.00. The Complainant tendered a check in the sum of \$5,000.00 on or about February 8, 2006, as the initial payment called for under the note. Although the sum paid to the Respondent constituted, in whole or in major part, an advance of legal fees, the Respondent failed to deposit the said check in an attorney escrow account. The Complainant was to make monthly payments of \$1,000.00 until the face amount of the note was paid in full. The Complainant did not make any further payments.

4. In addition to other legal services performed in preparation for a *habeas corpus* petition to be filed following exhaustion of the client’s appeals, in March of 2006 the Respondent filed a “Notice and Motion for Appeal Bond” in the Prince William County Circuit Court on behalf of Walter Ramos Lara. The Motion was denied.

5. Thereafter, prior to the exhaustion of the client’s appeals, the Complainant became dissatisfied with the services of the Respondent. He made no installment payments to the Respondent due under the promissory note beyond the initial \$5,000.00 payment referred to above.

6. The Respondent sent a letter dated March 8, 2007, to the Complainant informing him that he, the Respondent, had sent a letter to the Complainant’s son, Mr. Lara, informing him that the Complainant no longer wished to pay the Respondent for the son’s representation.

7. The Respondent’s letter provided an itemized “breakdown of time” devoted to the legal matter, totaling the sum of 37.5 hours. The Respondent claimed that he had earned at least

the sum of \$11,250.00, and that a balance of \$6,250.00 was due after application of the \$5,000.00 theretofore paid. The Respondent stated that he was nonetheless returning the sum of \$2,300.00 to the Complainant, waiving the balance due, but that “if there is any disagreement with this amount or any other matter, then the amount still owed will be immediately due.”

8. The refund check sent to the Complainant was drawn upon the Respondent’s law office operating account. The Respondent contends that the proceeds of said check were deposited into his operating account following his decision to make a refund, after having been maintained in a “secure safe.”

The Board finds by clear and convincing evidence that Respondent’s aforesaid conduct constitutes a violation of the following provision of the Virginia 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:
 - (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.

Upon consideration whereof, it is ORDERED as that the Respondent shall receive a PUBLIC ADMONITION, WITH TERMS.

The Terms of discipline shall be that Respondent shall commit no violation of any provision of Rule 1.15 of the Virginia Rules of Professional Conduct between the date of entry of this Memorandum Order and February 15, 2012.

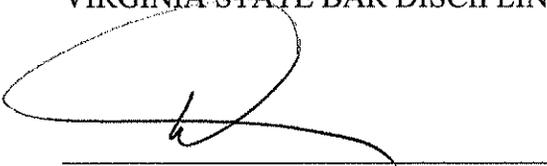
Upon any finding made by a district committee of the Virginia State Bar, the Virginia State Bar Disciplinary Board, or a three-judge circuit court that the Respondent has violated any provision of said Rule during the applicable period, by an order of such tribunal which has become final, then, and in such event, as an alternative disposition of this matter by a PUBLIC ADMONITION, WITH TERMS, the Respondent's license to practice law in the Commonwealth of Virginia shall be suspended for a period of thirty (30) days.

Pursuant to Part Six, Section IV, Paragraph 13-9E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

It is further ORDERED that an attested copy of this Order shall be mailed by Certified Mail, Return Receipt Requested, to the Respondent, at this last address of record with the Virginia State Bar being Suite 600, 1800 Diagonal Road, Alexandria, VA 22314, and a copy by regular mail to Bernard J. DiMuro, Respondent's Counsel, at 908 King Street, Suite 200, Alexandria, VA 22314, and a copy to Seth M. Guggenheim, Senior Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219.

ENTER: This 15th day of February, 2011

VIRGINIA STATE BAR DISCIPLINARY BOARD



William E. Glover, Chair