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VIRGINIA:

BEFORE THE FIFTH DISTRICT—SECTION III SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

VSB CLERK'S OFFICE

IN THE MATTER OF LARRY CECIL BROWN, JR., ESQUIRE
VSB Docket No. 07-053-1194

SUBCOMMITTEE DETERMINATION
PUBLIC ADMONITION, WITHOUT TERMS

On April 22, 2010, a meeting in this matter was held before a duly convened Fifth District--Section III Subcommittee consisting of Jerrold Jay Negin, Esq., Mr. Daniel Aminoff, lay person, and Michelle Renee Robl, Esq., presiding, to review an Agreed Disposition reached by the parties.

Pursuant to the provisions of the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-15, the Fifth District--Section III Subcommittee of the Virginia State Bar accepts the proposed Agreed Disposition and hereby serves upon the Respondent the following Public Admonition, without Terms, as set forth below:

I. FINDINGS OF FACT

1. At all times relevant hereto, Larry Cecil Brown, Jr. (hereafter "Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On or about April 28, 2005, Themitha Renee Garner (hereafter "Complainant") executed a "Promissory Note" in the face amount of \$17,500.00, with a confession of judgment provision, for Respondent's legal services to be performed on behalf of Complainant's brother, who was convicted of first degree murder in the Prince George's County, Maryland, Circuit Court. *Inter alia*, the note provided that it was

for legal services rendered in connection with Appeal before the Maryland Court of Appeals for ROBERT NELSON GARNER, ONLY. Both parties agree that this fee is for handling this matter to the best of Mr. Brown's expertise, and is anegotiated reduced amount than Mr. Brown desired for such a serious matter. Both sides understand that this entire fee is due regardless of the disposition of the matter and any further appeals will require a

separate and new agreement. Mr. Brown may employ additional attorneys in Maryland at his discretion and Mr. Brown will be solely responsible for payment of fees for any attorney so used. Client will be responsible for transcript fees, copying fees and filing fees and excessive transportation fees in addition to legal fees. [Note: All spelling, grammatical, and typographical errors are in the original document.]

The promissory note was the only undertaking entered into between the Respondent and the client and/or his family serving as a fee agreement and description of legal services to be performed.

3. The Complainant and her family members paid the Respondent a total of \$13,024.50 as fees and costs.

4. The Respondent initially advised Virginia State Bar Investigator David W. Jackson, on September 18, 2007, that any money paid to him was placed in his trust account at Riggs Bank, and was quickly earned. On or about September 21, 2007, the Respondent stated in writing that he did not deposit funds into a trust account, but had placed them in a law office operating account.

5. On August 22, 2005, via an attorney admitted to practice law in the State of Maryland, a "Motion Pro Hac Vice" was filed in the Court of Special Appeals of Maryland. The Motion was "for the special admission of Larry C. Brown, Jr., Esq., a member in good standing of the Bar of Virginia, for the limited purpose of appearing and participating in this case as counsel of record for Robert Gardner's [*sic*] Appeal to the Maryland Court of Special Appeals." Said "Motion Pro Hac Vice" was not thereafter acted upon by or on behalf of the Respondent, and Respondent was thus never granted leave to appear as Mr. Garner's counsel for the purpose expressed in the Motion.

6. The Respondent signed the said Motion in the capacity of "certifier," on or about August 15, 2005. Among the matters "certified" by the Respondent to the Maryland Court of Special Appeals was "That there are no disciplinary complaints pending against me for violation of the rules of the courts of [Virginia]".

7. The Respondent's certification was not accurate, in that a complaint bearing Virginia State Bar Docket Number 05-053-3617 was pending against the Respondent on the date he signed the said Motion and on the date it was filed. The Respondent would testify that such incorrect statement was the product of oversight. The said complaint was, in any event, dismissed by a tribunal of the Virginia State Bar without any charges having been filed and without the necessity of a hearing.

8. Despite the scope of representation set forth in the promissory note and the filing of the "Motion Pro Hac Vice," the Respondent took no further action to obtain admission to practice before the said appellate court to prosecute his client's appeal. The Respondent, other than going

to the Public Defender's office in Baltimore to attempt to obtain copies of Client's trial transcripts, did not coordinate or consult with the Office of the Public Defender for Maryland regarding the client's appeal, which was handled by that Office, nor did he seek to substitute himself as appellate counsel of record for the client. Instead, the Respondent, after reviewing the trial record and transcripts, focused his attention to pursuing a Petition for Post Conviction Relief in the Circuit Court of Maryland for Prince George County, claiming ineffective assistance of the client's trial counsel. The scope of Respondent's representation as identified in the promissory note was not revised by means of a new or amended written engagement agreement between the Respondent and the complainant and/or family members.

9. In or around November of 2007, the Respondent stated to the client that his services were being ended at the request of his sister/Complainant. The Respondent had earlier been given written notice by the Complainant that he was being discharged as counsel for her brother/client in the matter. The Respondent claims to have devoted at least 134 hours to the client's legal matter. The Respondent tendered the sum of \$1,500.00 to the Complainant as a refund, and claimed to be waiving any further sums owed under the promissory note, which tendered refund the Complainant found unacceptable.

10. Prior to issuance of this Determination, the Respondent, however, voluntarily resolved to the Complainant's satisfaction her claim for a refund of fees, and he represented to Bar Counsel that he read and understands the following authorities and advisory material regarding an attorney's handling of client funds:

- a) Legal Ethics Opinion 1606;
- b) Rule of Professional Conduct 1.15; and
- c) the publication entitled *Lawyers and Other People's Money*, Fourth Edition, located at http://www.vsb.org/docs/Lawyers_OPM_electronic.pdf on the website of the Virginia State Bar.

II. NATURE OF MISCONDUCT

The Subcommittee finds that the following provisions of the Rules of Professional Conduct have been violated:

RULE 1.4 Communication

- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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.

RULE 1.16 Declining Or Terminating Representation

- (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, on the Respondent, Larry Cecil Brown, Jr., Esquire, and he is so admonished.

IV. COSTS

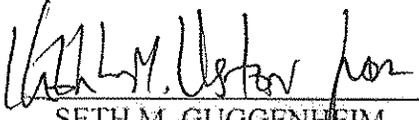
Pursuant to Part Six, Section IV, Paragraph 13-9E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

**FIFTH DISTRICT--SECTION III SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

By 
Michelle Renee Robl, Esq.
Chair of Subcommittee and
Fifth District—Section III Committee

CERTIFICATE OF SERVICE

I hereby certify that on 30th day of April 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 Larry Cecil Brown, Jr., Esquire, Larry C. Brown, Jr., P.C., 1800 Diagonal Road, Suite 600, Alexandria, VA 22314, his address of record with the Virginia State Bar.



SETH M. GUGGENHEIM
Senior Assistant Bar Counsel