

VIRGINIA:

BEFORE THE SECOND DISTRICT SUBCOMMITTEE OF THE VIRGINIA STATE BAR

IN THE MATTER OF
LINDA LEE CUPIT

VS B Docket No. 09-022-078836

**SUBCOMMITTEE DETERMINATION
(PUBLIC ADMONITION WITH TERMS)**

On September 9, 2009, a meeting in this matter was held before a duly convened Second District Subcommittee consisting of Brandon H. Zeigler, Esquire, Mr. David M. Jones, lay member, and Tanya Bullock, Chair Presiding.

Pursuant to Part 6, Section IV, Paragraph 13-15.B.2. of the Rules of the Virginia Supreme Court, the Second District Subcommittee 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, Linda Lee Cupit, Respondent, has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On March 9, 2009, Respondent overdrew her attorney escrow account when a check she wrote for \$700.00 was presented against an escrow account balance of \$555.69. Upon notification, Respondent made good the check by sending certified funds to the payee so that no loss occurred.
3. Respondent was not aware of her escrow account balance as she had not been performing required reconciliations of her escrow account and failed to maintain the required general and subsidiary ledgers of her escrow account.
4. Respondent's escrow account was active at this time. During the month of February, 2009, Respondent made three deposits totaling \$27,250.00. In March, 2009, she made deposits of \$38,049.63 and wrote eight checks in the amount of \$38,549.63.

II. NATURE OF MISCONDUCT

Such conduct by Linda Lee Cupit 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to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be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.
- ...
- (e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must produce the records and information required by this Rule.
- (1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:
 - (i) a cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;
 - (ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;
 - (ii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has

been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;

- (iv) reconciliations and supporting records required under this Rule;
- (v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

...

- (f) Required Escrow Accounting Procedures. The following minimum escrow accounting procedures are applicable to all escrow accounts subject to Rule 1.15(a) and (c) by lawyers practicing in Virginia.
 - (4) Periodic trial balance. A regular periodic trial balance of the subsidiary ledger shall be made at least quarter annually, within 30 days after the close of the period and shall show the escrow account balance of the client or other person at the end of each period.
 - (i) The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of monies received in escrow for the period and deducting the total of escrow monies disbursed for the period; and
 - (ii) The trial balance shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.
 - (2) Reconciliations.
 - (i) A monthly reconciliation shall be made at month end of the cash balance derived from the cash receipts journal and cash disbursements journal total, the escrow account checkbook balance, and the escrow account bank statement balance;
 - (ii) A periodic reconciliation shall be made at least quarter annually, within 30 days after the close of the period, reconciling cash balances to the subsidiary ledger trial balance;
 - (ii) Reconciliations shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.

III. PUBLIC ADMONITION WITH TERMS

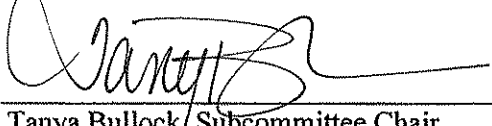
Accordingly, it is the decision of the subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for the disposition of a PUBLIC Admonition with Terms of this complaint. The terms and conditions are:

1. **On or before December 31, 2009**, the Respondent shall complete and certify to Assistant Bar Counsel Georgiadis her completion of two (2) hours of continuing legal education (CLE) in the subject of Escrow/Trust Accounting. Such hours shall not be submitted or applied toward Respondent's Mandatory Continuing Legal Education annual requirement in the Commonwealth of Virginia or in any other jurisdiction where Respondent is admitted to practice law. On or before December 31, 2009, Respondent shall certify her compliance with said CLE terms by promptly delivering a fully and properly executed Virginia MCLE Board Certification of Attendance Form to Assistant Bar Counsel Georgiadis;
2. On or before December 31, 2009, Respondent shall obtain, read in full, and certify to Assistant Bar Counsel Georgiadis that she has done so, a copy of Lawyers and Other People's Money, available at http://www.vsb.org/docs/Lawyers_OPM_electronic.pdf.

Upon satisfactory proof that such terms and conditions have been met on or before December 31, 2009, this matter shall be closed. If the terms and conditions are not met by the specified dates, the district committee shall impose a Public Reprimand without Terms pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-15.F., and such show cause hearing shall be conducted by a panel of the Second District Committee—Section II, Respondent having waived any rights to have her show-cause determination heard by a three judge circuit court panel under §54.1-3935 of the Code of Virginia.

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

SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By 
Tanya Bullock, Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on the 26th day of October, 2009, I caused to be mailed by Certified Mail, Return Receipt Requested, a true and complete copy of the Subcommittee Determination (PUBLIC Admonition With Terms) to Linda Lee Cupit, Respondent, at Cupit Law Office, 5348. Lynbrook Landing, Virginia Beach, VA 23462, Respondent's last address of record with the Virginia State Bar.


Paul D. Georgiadis, Assistant Bar Counsel