

VIRGINIA:

**BEFORE THE TENTH DISTRICT, SECTION II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
ROBERT BRUCE DICKERT**

VSB Docket No. 07-102-1510

**SUBCOMMITTEE DETERMINATION
PUBLIC ADMONITION WITH TERMS**

On August 13, 2008, a meeting in this matter was held before a duly convened Tenth District, Section II Subcommittee consisting of Robert Lucas Hobbs, Esq., Chair, Terry G. Kilgore, Esq., member and Linda F. Rasnick, lay member.

Pursuant to Part 6, Section IV, Paragraph 13.G.4. of the Rules of the Virginia Supreme Court, the Tenth District, Section II 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 hereto Respondent Robert Bruce Dickert ("Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent was admitted to the practice of law in the Commonwealth of Virginia on October 2, 1984.
3. By letter dated October 24, 2005, Complainant Kenneth Rumpf ("Mr. Rumpf") paid Respondent \$750.00 as an advance payment for legal fees for collection, including propounding discovery and debtor's interrogatories, on an October 4, 2004 judgment Mr. Rumpf obtained in North Carolina against a Virginia resident, Danny Triplett ("judgment debtor").
4. Respondent did not deposit the \$750.00 advance legal fee into his escrow account. Rather, Respondent deposited the funds into his operating account.
5. Respondent docketed Mr. Rumpf's judgment in Bristol Circuit Court on December 29, 2005.
6. Respondent researched the records of Bristol and Washington counties to determine whether the judgment debtor owned property in either county. Respondent determined that the judgment debtor did not own any property in Washington County and that the

judgment debtor's Bristol County property was jointly owned and titled with his wife as tenants by the entirety. Notwithstanding Mr. Rumpf's request and Respondent's agreement to propound discovery on the judgment debtor, Respondent took no further action towards discovering or identifying assets subject to collection. Respondent took no other action in furtherance of the representation before receiving Mr. Rumpf's October 31, 2006 letter complaining about Respondent's lack of service and demanding a refund.

7. In early 2006, Mr. Rumpf called Respondent for a status update. At that time, Mr. Rumpf was unaware that Respondent had docketed the judgment in Bristol County. During the conversation, Respondent told Mr. Rumpf that he had docketed the judgment but that he could not place the judgment on the judgment debtor's home. Mr. Rumpf reiterated his request that the Respondent conduct discovery to identify the judgment debtor's bank accounts and real property holdings. Respondent advised Mr. Rumpf that he would work on it.
8. Mr. Rumpf called Respondent at least four to five more times between January and March 2006 to determine what Respondent had learned regarding the judgment debtor's assets. Each time Respondent advised Mr. Rumpf he was busy and that he had not had time to attend to Mr. Rumpf's case.
9. After March 2006, Mrs. Rumpf called Respondent approximately five or six times. Respondent never returned her calls, and he failed to communicate, in any form or fashion, the case status to Mr. or Mrs. Rumpf.
10. Only after Respondent was notified of Mr. Rumpf's bar complaint by letter dated December 7, 2006, did Respondent account for his services and issue a partial refund to Mr. Rumpf.

II. NATURE OF MISCONDUCT

Such conduct by Robert Bruce Dickert constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 1.4 Communication

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

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:

- (c) A lawyer shall:
 - (3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them; and

- (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;
 - (iii) 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.
- (2) Deposits. All receipts of escrow money shall be deposited intact and a retained duplicate deposit slip or other such record shall be sufficiently detailed to show the identity of each item;
 - (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.
 - (5) 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;
 - (iii) Reconciliations shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.

- (6) Receipts and disbursements explained. The purpose of all receipts and disbursements of escrow funds reported in the escrow journals and subsidiary ledgers shall be fully explained and supported by adequate records.

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. Within 15 days of the date of the Subcommittee Determination, Respondent shall confirm in writing review of Rule 1.15 of the Rules of Professional Conduct to Assistant Bar Counsel Renu Mago, Virginia State Bar, Eighth and Main Building, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800;
2. Within 30 days of the date of the Subcommittee Determination, Respondent shall engage the services of a CPA (Certified Public Accountant) (a) who will certify familiarity with the requirements of Rule 1.15 of the Rules of Professional Conduct and (b) who has been pre-approved by Assistant Bar Counsel to review Respondent's attorney trust account record-keeping, accounting, and reconciliation methods and procedures to ensure compliance with Rule 1.15 of the Rules of Professional Conduct. In the event the CPA determines that Respondent is in compliance with Rule 1.15, the CPA shall so certify in writing to Respondent and the Virginia State Bar. In the event the CPA determines Respondent is NOT in compliance with Rule 1.15, the CPA shall notify Respondent and the Virginia State Bar, in writing, of the measures Respondent must take to bring himself into compliance with Rule 1.15. Respondent shall provide the CPA with a copy of the Agreed Disposition at the outset of his engagement of the CPA.
3. Respondent shall be obligated to pay when due the CPA's fees and costs for services (including provision to the bar and to Respondent of information concerning this matter);
4. In the event the CPA determines that Respondent is NOT in compliance with Rule 1.15, Respondent shall have forty-five (45) days following the date the CPA issues a written statement of the measures Respondent must take to comply with Rule 1.15 within which to bring him into compliance. The CPA shall then be granted access to Respondent's office, books, and records, following the passage of the forty-five (45) day period to determine whether Respondent has brought himself into compliance as required. The CPA shall thereafter certify in writing to the Virginia State Bar and to Respondent either that Respondent has brought himself into compliance with Rule 1.15 within the forty-five (45) day period or that he has failed to do so. Respondent's failure to bring himself into compliance with Rule 1.15 as of the conclusion of the forty-five (45) day period shall be considered a violation of the Terms set forth herein.

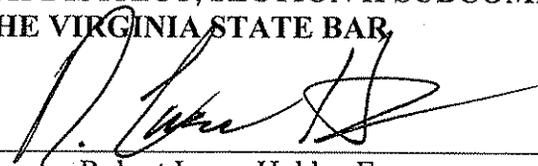
5. Unless an extension is granted by the bar for good cause shown to accommodate the CPA's schedule, the Terms specified in paragraphs 2, 3, and 4, shall be completed **no later than January 27, 2009.**
6. On or about January 27, 2010, the CPA engaged pursuant to paragraph 2 shall reassess Respondent's attorney's trust account record-keeping, accounting, and reconciliation methods and procedures to ensure continued compliance with Rule 1.15 of the Rules of Professional Conduct. In the event the CPA determines that Respondent has NOT remained in compliance with this Rule, such non-compliance will be considered a violation of the Terms set forth herein.

Upon satisfactory proof that such Terms and conditions have been met, this matter shall be closed. If, however, ANY of the foregoing Terms are not met by the dates specified, this District Committee shall impose as an Alternate Sanction a Certification For Sanction Determination as defined by Part VI, Section IV, Paragraph 13.A of the Rules of the Virginia Supreme Court and set forth in Part VI, Section IV, Paragraph 13.G.5.b. of the Rules of the Virginia Supreme Court. If there is disagreement as to whether the Terms were fully and timely completed, the Tenth District, Section II Committee will conduct a hearing on the issue. At the hearing, the sole issue shall be whether Respondent fully completed the Terms within the time specified above. The Respondent shall have the burden of proof by clear and convincing evidence at the hearing.

Pursuant to Part Six, Section IV, Paragraph 13.B.8.c. of the Rules of Court, the Clerk of the Disciplinary System shall assess costs.

**TENTH DISTRICT, SECTION II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

By _____



Robert Lucas Hobbs, Esq.
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on August 20, 2008, 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 Robert Bruce Dickert, Respondent, at 311 Rebecca Street, P.O. Box 16444, Bristol, VA 24209, Respondent's last address of record with the Virginia State Bar.

Renu Mago

Renu Mago, Assistant Bar Counsel