

VIRGINIA:

**BEFORE THE SEVENTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
WALTER FRANKLIN GREEN, IV**

VSB Docket No. 07-070-070541

**DISTRICT COMMITTEE DETERMINATION
(PUBLIC ADMONITION WITH TERMS)**

On December 9, 2008, a hearing in this matter was held before a duly convened Seventh District Committee panel consisting of Randy Collins (Lay Member), Minor Eager (Lay Member), Richard E. Lyons (Lay Member), Lois G. Pearson, Esquire, D. Brock Green, Esquire, Richard E. Carter, Esquire, William H. Atwill, Jr., Esquire, and Samuel R. Walker, Esquire, Chair, presiding.

The Respondent, Walter Franklin Green, IV, appeared in person with his counsel, Bradley G. Pollack, Esquire. The Virginia State Bar appeared through its Bar Counsel, Edward L. Davis, Esquire.

The matter proceeded upon the Charge of Misconduct, dated September 30, 2008, setting forth allegations that the Respondent violated Rules of Professional Conduct 5.5 (a) (1), *Unauthorized Practice of Law*, and 7.1 (a) (1), *Communications Concerning a Lawyer's Services*.

The Chair polled each member of the hearing panel as to whether they had any personal or financial interest that might affect or reasonably be perceived to affect their ability to be impartial. Upon receiving answers in the negative, and upon the Chair affirming that he had no such interest, the Chair advised the parties of the hearing procedures.

Thereafter, the parties made opening statements, and the panel received the testimony of Albert E. Rhodenizer, William H. Dickinson, and the Respondent, who testified as an adverse witness. The panel also received Virginia State Bar Exhibits 1, 3 (pages 1-5 only) and 4 over the Respondent's objections, and refused Virginia State Bar Exhibit 2, and pages 6-9 of Virginia State Bar Exhibit 3. The panel also received Respondent's Exhibits 1 through 4, including a letter, dated December 11, 2006, which the panel received over the objection of the Virginia State Bar. The panel received the rest of the Respondent's Exhibits 1 through 4 without objection.

Upon the conclusion of the bar's case, the Respondent moved to strike the bar's evidence, and the panel overruled the motion. Thereafter, the panel heard from the Respondent, who testified in his own behalf. At the conclusion of all of the evidence, the Respondent renewed his motion to strike, which the panel overruled. The parties presented closing arguments, and the panel adjourned to deliberate the Charge of Misconduct.

Pursuant to Part 6, Section IV, Paragraph 13.H.2.1.(2) of the Rules of the Virginia Supreme Court, the Seventh District Committee 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, Walter Franklin Green, IV, ("Respondent"), was an attorney whose license to practice law in the Commonwealth of Virginia had been suspended.

2. Effective January 1, 2007, the Respondent's license to practice law in the Commonwealth of Virginia was suspended for a period of six months. Pursuant to the

Summary and the Memorandum Orders suspending his license, the Virginia State Bar instructed Respondent to cease and desist from the practice of law on January 1, 2007. The Order further directed Respondent to notify all courts, judges, opposing counsel, and his clients of his suspension within fourteen days of his suspension. In addition, the Disciplinary Board ordered that Respondent commence a forty-five day suspension at the conclusion of his six-month suspension on or about July 1, 2007.

3. On or about May 9, 2007, the Virginia State Bar received information that the Respondent continued to advertise his legal services as a duly licensed attorney in Virginia on his website (www.wgreenlaw.com), during a period covered by his suspension.

4. On June 12, 2007, VSB Investigator Albert E. Rhodenizer, Jr. interviewed Respondent and showed him a printed copy of the website advertisement. In response to questions from Investigator Rhodenizer, the Respondent stated that he knew he had a website advertising his law practice, that he did not consider taking it down during his suspension, that he did not think about it, that he did not know how to take it down, but that he would look for the person who sold him the service to take the website down for the remainder of his suspension.

II. NATURE OF MISCONDUCT

Having found that the Respondent, during a period of time that his law license was suspended, knowingly permitted the continued posting of his law office website with the name "Walter Franklin Green, IV, PLC, Attorney at Law," his areas of practice, and the address of his former law office published on the website, and that doing so was misleading, and an improper holding out of himself by word or advertisement to another

as qualified or authorized to practice law in the Commonwealth of Virginia (See Paragraph B.4, Part Six, Section I, *Rules of the Supreme Court of Virginia*) during a time that he was not permitted to do so, the Committee finds that such conduct by Walter Franklin Green, IV, constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 5.5 Unauthorized Practice Of Law

(a) A lawyer shall not:

- (1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction

RULE 7.1 Communications Concerning A Lawyer's Services

(a) A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it:

- (1) contains false or misleading information.

III. PUBLIC ADMONITION WITH TERMS

Thereafter, the panel received evidence in extenuation and mitigation of the Misconduct found. The panel received the Respondent's prior disciplinary record, which reflects that the Respondent's license to practice law in the Commonwealth of Virginia was also suspended for a period of eighteen months beginning August 22, 2008, and Virginia State Bar Exhibit 2, received by the panel over the Respondent's objection, which reflects that the website www.wgreenlaw.com remains posted on the internet.

The panel also received Respondent's Exhibits 4, 5 and 6 over the objection of the Virginia State Bar, and testimony from the Respondent and Mr. Rhodenizer, whom the

Respondent called as a mitigation witness. Counsel argued the matter, and the panel adjourned to deliberate an appropriate sanction.

Accordingly, it is the decision of the Seventh District Committee 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 thirty days of the date of this hearing, or January 8, 2009, the Respondent, Walter Franklin Green, IV, will ensure that the web-site www.wgreenlaw.com, which continues to advertise his services as an attorney while his law license is suspended, has been taken down or discontinued.

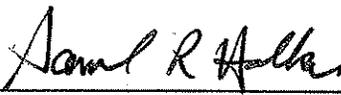
If the terms and conditions are not met by the specified date, the District Committee shall certify this matter to the Virginia State Bar Disciplinary Board for sanction determination pursuant to Part Six, Section IV, Paragraph H.2.p. of the Rules of Court.

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

The Court Reporter who transcribed these proceedings is Tracy J. Stroh of Chandler & Halasz Court Reporters, Post Office Box 9349, Richmond, Virginia 23227, (804) 730-1222.

**SEVENTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR**

By: _____


Samuel Rixey Walker, Chair

CERTIFICATE OF MAILING

I certify that on the 18th day of December, 2008 I caused to be mailed by Certified Mail, Return Receipt Requested, a true and complete copy of the District Committee Determination (Public Admonition With Terms) to Walter Franklin Green, IV, Respondent, at Walter F. Green IV, PLC, 77 North Liberty Street, Harrisonburg, Virginia 22802, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Bradley G. Pollack, Esquire, Respondent's Counsel, at 148 North Main Street, Woodstock, Virginia 22664, his address of record with the Virginia State Bar.

Walter F. Green IV