

**VIRGINIA :**

**BEFORE THE THIRD DISTRICT SECTION III SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF  
ANNE HOLLAND HARRIS**

**VS** **Docket No. 09-033-077863**

**SUBCOMMITTEE DETERMINATION**  
**PUBLIC ADMONITION WITH TERMS**

On November 17, 2009 a meeting in this matter was held before a duly convened Third District Section III Subcommittee consisting of Karen M. Adams, Esquire, Chair presiding, Edward S. Whitlock, III, Esquire and Stephen D. Leibovic, M.D., lay person to consider an Agreed Disposition tendered by Assistant Bar Counsel, Respondent and Respondent's counsel.

Pursuant to Part 6, Section IV, Paragraph 13-15.B.2. of the Rules of the Virginia Supreme Court, the Third District Section III Subcommittee of the Virginia State Bar accepts the Agreed Disposition and serves upon the Respondent the following **PUBLIC** Admonition with Terms:

**I. FINDINGS OF FACT**

1. At all times relevant hereto, Anne Holland Harris ("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 April 22, 1993.
3. Allyson M. Wandell retained Respondent to represent her interests in a divorce case.
4. At the outset of the representation, Respondent charged Ms. Wandell an initial retainer of \$5,000.00, for the filing of the divorce proceedings. Respondent estimated that the work would take twenty hours.
5. Respondent further stated that any work in excess of the initial twenty hours would be billed at the rate of \$250.00 per hour.

6. Respondent further stated that in the event Ms. Wandell was unable to pay any of the fees in excess of the initial retainer, that she would pay the bill from her share of the proceeds of the sale or refinance of Ms. Wandell's marital residence.

7. Respondent's fee arrangement was memorialized in writing by correspondence dated December 14, 2005.

8. The December 14, 2005 fee letter advised Ms. Wandell that in the event Respondent had to refer the account for collection, Ms. Wandell would be responsible for costs and attorney's fees. Further, Respondent advised that interest would accrue on the outstanding balance at a rate of 18% per annum.

9. During the course of the representation, up through October of 2007, Respondent billed Ms. Wandell for attorney's fees and costs in the amount of \$18,853.30, of which \$16,541.50 represented fees and costs and \$1,820.83 represented interest.

10. On June 15, 2007, the Circuit Court of Henrico County entered a decree reflecting certain rulings as to equitable distribution and other matters.

11. The June 15, 2007 decree also ordered that the case remain on the Court's docket pending sale of the marital residence.

12. Although Ms. Wandell had some prospective offers for the sale of the marital residence, no sale was closed as of March 6, 2008.

13. On March 8, 2006, Respondent sent Ms. Wandell a letter enclosing, among other things, a two page Irrevocable Assignment of Proceeds, drafted by Respondent.

14. The assignment conveyed to Respondent, an interest in the marital residence, an amount of not less than \$18,853.50. Also stated in the assignment was an acknowledgment that the balance due may increase and that the Respondent's interest in the marital residence would increase concurrently.

15. The Irrevocable Assignment of Proceeds states that interest on the debt that Ms. Wandell owed would accrue at the rate eight percent per month, which would be calculated based on the total balance due as of the date of payment to Respondent.

16. The Irrevocable Assignment of Proceeds states that it operates as a judgment at law which Ms. Wandell, her heirs, or executors and administrators of her estate could not dispute.

17. Thereafter, Respondent continued to send Ms. Wandell bills for amounts due and owing.

18. On December 3, 2008, Respondent sent Ms. Wandell an interim statement claiming an amount due and owing of \$60,460.00.

19. Aside from twelve hours of additional legal work, the increase from \$18,853.50 to \$60,460.00 constitutes interest that Respondent charged at eight percent per month from October 2007 through December of 2008.

20. Ms. Wandell retained Scott G. Crowley, Esquire, to represent her in connection with Respondent's claim of being owed in excess of \$60,000.00.

21. On December 10, 2008, Mr. Crowley wrote to Respondent offering to pay the principal of Respondent's bill, with interest at a rate of 8% per annum from October of 2007 through the date of payment.

22. Respondent did not accept the offer.

23. In her interview with the Virginia State Bar Investigator, Respondent admitted to having charged other clients interest at the rate of eight percent per month despite her claim of having not ever received the total amount of principal plus interest.

## II. FINDINGS OF MISCONDUCT

Such conduct by Anne Holland Harris constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **RULE 1.8 Conflict of Interest: Prohibited Transactions**

- (a) A lawyer shall not enter into a business with a transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to the client unless:
  - (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client;
  - (2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and
  - (3) the client consents in writing thereto.
- (j) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of the litigation lawyer is conducting for a client, except that the lawyer may:
  - (1) acquire a lien granted by law to secure the lawyer's fee or expenses; and
  - (2) contract with a client for a reasonable contingent fee in a civil case, unless prohibited by Rule 1.5.

\* \* \* \*

#### **RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.

\* \* \* \*

### **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, compliance with which is a predicate for this agreed disposition, shall be met by December 11, 2009. The terms with which the Respondent must comply are as follows:

1. Respondent shall agree to withdraw her claim against Ms. Wandell for interest in accordance with the terms of the Irrevocable Assignment of Proceeds and for any and all other clients that Respondent may have that are being charged such interest rates.
2. Respondent represents to the Bar that she will no longer use the interest rate in the Irrevocable Assignment of Proceeds in any future financial or billing arrangements with her clients.
3. On or before December 11, 2009, Respondent must tender to Assistant Bar Counsel a letter stating that she is in compliance with terms 1 and 2.

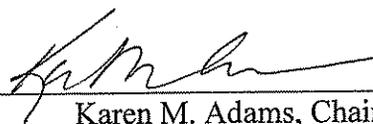
Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by December 11, 2009, or the Respondent is found at any future time to be in violation of these terms, the Respondent agrees that the district committee shall impose an pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-15.G an alternative sanction of **PUBLIC REPRIMAND WITHOUT TERMS**.

The Subcommittee wishes to express its sense that interest rate that Respondent sought to charge her client in this case was outrageous and not in comportment with the standards expected

of members of the Bar. It is the Subcommittee's sincere hope that should Respondent wish to seek to charge clients interest on the balance of unpaid fees that she do so in accordance with the guidelines set forth in the Bar's Legal Ethics Opinions, and that the rates conform to standards of decency and fair dealing.

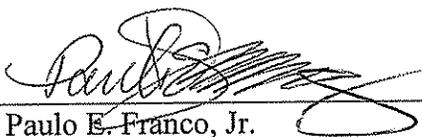
Pursuant to Part Six, Section IV, Paragraph 13-9.E. of the Rules of Court, the Clerk of the Disciplinary System shall assess costs.

THIRD DISTRICT SECTION III SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By   
Karen M. Adams, Chair

CERTIFICATE OF MAILING

I certify that this on 23<sup>rd</sup> day of December, 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 Anne Holland Harris, Respondent, at Suite 200 B, 3108 North Parham Road, Richmond, VA 23294-4415, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to R. Paul Childress, Jr., McSweeney, Crump, Childress & Temple, PC, 11 South 12<sup>th</sup> Street, 5<sup>th</sup> Floor, Richmond, Virginia 23219.

  
Paulo E. Franco, Jr.  
Assistant Bar Counsel