

**VIRGINIA :**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF DEAN SPIRO KALIVAS  
VSB Docket No. 06-053-3184**

**ORDER OF REVOCATION**

This matter came on August 4, 2010, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent, Dean Spiro Kalivas, relative to the matters contained in the Subcommittee Determination (Certification) issued to the Respondent, by the Fifth District -- Section III Subcommittee of the Virginia State Bar on February 18, 2010. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Stephen A. Wannall, lay member, John S. Barr, Timothy A. Coyle, Samuel R. Walker, and William E. Glover, Chair, presiding.

Seth M. Guggenheim, Senior Assistant Bar Counsel, representing the Bar, and the Respondent, Dean Spiro Kalivas, presented an endorsed Agreed Disposition, reflecting the terms proposed by the parties as a resolution of the allegations of ethical misconduct contained in the Subcommittee Determination (Certification). The court reporter for the proceeding was Tracy J. Stroh, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222.

Having considered the Agreed Disposition, it is the decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

1. At all times relevant hereto Dean Spiro Kalivas, Esquire, was an attorney licensed to practice law in the Commonwealth of Virginia. The Respondent is not, and was not at any time relevant to the facts set forth herein, licensed to practice law in any state other than the Commonwealth of Virginia.

2. On September 9, 2005, Mr. Kalivas testified at a "341(a) Meeting of Creditors" conducted as part of a Nevada bankruptcy proceeding. Under oath, he testified that:

a. in his work, he handles cases "[strictly] always on a contingency" but that he does not have written fee agreements for such cases;

b. he deposits payments received from clients in his trust account at Frontier Bank in Seattle, Washington, which account is not maintained under the State of Washington IOLTA system; and

c. he pays from his trust account his monthly expenses of \$2,500.00 for office rent, travel, postage and freight, utilities, and contract labor; that he has no other checking accounts, and that the only other account on which he has signing authority is associated with a certain business.

3. Mr. Kalivas's trust account, numbered 3267011264, maintained at Frontier Bank, was known as

**Dean Kalivas Client Trust Account  
1420 Fifth Avenue Suite 2200  
Seattle WA 98101.**

The said account, used by Mr. Kalivas for business and/or personal purposes, and not strictly as an attorney escrow account to protect and safeguard client funds, reflected negative balances on thirty nine (39) occasions and overdraft fees between December 9, 2003 and January 13, 2005. The amount of the negative balance ranged from \$43.47 to \$8,374.47.

4. Prior to the account referred to above, Mr. Kalivas maintained an interest-bearing trust account numbered 3267801102 at Frontier Bank, known as

**Dean Kalivas/ CL TRT  
1420 Fifth Avenue Suite 2200  
Seattle WA 98101.**

The said account was not established or maintained in conformity with Part Six, Section IV, Paragraph 20 of the Rules of the Supreme Court of Virginia. The said account, used by Mr. Kalivas for business and/or personal purposes, and not strictly as an attorney escrow account to protect and safeguard client funds, reflected negative balances on five (5) occasions and overdraft fees between June 3, 2003 and July 8, 2003. The amount of the negative balance ranged from \$3,481.70 to \$4,995.69.

5. Mr. Kalivas has a misdemeanor criminal conviction for contempt in the State of Washington for engaging in the unauthorized practice of law: *State of Washington v. Dean Spiro Kalivas*, King County Superior Court Case No. 82-1-02728-2 (1982).

6. In order to avoid the institution or conclusion of a proceeding for his disbarment or suspension from practice before the Internal Revenue Service, Mr. Kalivas offered his consent to suspension from such practice, and was thus placed by the Director of Practice of the Internal Revenue Service under an indefinite "consent suspension," effective April 1, 1992. The indefinite suspension remains in force and effect as of the date of execution of this Agreed Disposition.

7. In 2004, the State of Washington Practice of Law Board determined in a matter regarding his representation of certain parties, styled *In the Matter of Dean S. Kalivas, Respondent*, No. 03-16, that Mr. Kalivas was holding himself out as a lawyer in the State of Washington.

8. In consequence of the said Board's inquiry and determination, on September 27, 2004, Mr. Kalivas signed an Agreement to Refrain from Engaging in the Unauthorized Practice of Law, which provided, *inter alia*,

I, DEAN S. KALIVAS, respondent, agree to refrain from engaging in conduct that might constitute the unauthorized practice of law as set forth in the attached letter dated August 26, [sic] 2004. I agree to cease and desist from any activity wherein I hold myself out as a lawyer without clearly stating the jurisdiction in which I am admitted, and that I am not admitted to practice in Washington; from any activity

in Washington wherein I give legal advice to others as to their rights and responsibilities unless I am authorized by competent authority to do so; and from any activity which is defined as the practice of law in GR 24 unless I am authorized by competent authority to do so.

9. In response to a complaint made to the State of Washington Practice of Law Board concerning his representation of a Ms. Kathryn Filippi, Mr. Kalivas responded to the Board in August of 2007. The letterhead for his stationery identified him as an attorney at law, contained his Seattle, Washington, address, and contained no language stating that he was not licensed to practice law in the State of Washington or that his only state of licensure was the Commonwealth of Virginia.

The Board finds by clear and convincing evidence that the Respondent has violated the following provisions of the Virginia Rules of Professional Conduct:

**RULE 1.5 Fees**

- (c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall state in writing the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

**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.

**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[.]

**RULE 7.5 Firm Names And Letterheads**

- (a) A lawyer or law firm may use or participate in the use of a professional card, professional announcement card, office sign, letterheads, telephone directory listing, law list, legal directory listing, website, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1 and 7.2.

**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 as a lawyer[.]

*Eff. Mar. 25, 2003*

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

Upon consideration whereof, it is ORDERED that:

Mr. Kalivas's license to practice law in the Commonwealth of Virginia shall be revoked, *nunc pro tunc* to June 15, 2010, and the Order entered by the Board in this matter on that date shall be, and hereby is, vacated; and

As agreed by the parties, should Mr. Kalivas seek reinstatement of his license to practice law in the Commonwealth of Virginia, the Virginia State Bar may introduce in opposition to any such

petition for reinstatement such evidence as would have been admissible in prosecution of the allegations set forth in the Subcommittee Determination (Certification) filed in this matter; and

It is further ORDERED that the Respondent must comply with the requirements of Part Six, §IV: ¶13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. Respondent shall give such notice within fourteen (14) days of the effective date of the revocation order, and make such arrangements as are required herein within forty-five (45) days of the effective date of the order. The Respondent shall furnish proof to the bar within sixty (60) days of the effective date of the order that such notices have been timely given and such arrangement for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of June 15, 2010, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13-9 E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to respondent at this address of record with the Virginia State Bar, being Dean Spiro Kalivas, Suite 2200, 1420 Fifth Avenue, Seattle, WA 98101, by certified mail, return receipt

requested, and by regular mail to Seth M. Guggenheim, Senior Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219

ENTER THIS ORDER THIS 4TH DAY OF AUGUST, 2010 VIRGINIA  
STATE BAR DISCIPLINARY BOARD

A handwritten signature in black ink, appearing to read 'WEG', is written over a horizontal line.

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William E. Glover, Chair