

Sep 09, 2016

VIRGINIA:

## VSB CLERK'S OFFICE

BEFORE THE THIRD DISTRICT SUBCOMMITTEE, SECTION II  
OF THE VIRGINIA STATE BARIN THE MATTERS OF  
Fredrick Scott KaufmanVSB Docket No. 16-032-104668  
VSB Docket No. 16-032-105102SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On August 19, 2016 a meeting was held in these matters before a duly convened Third District Subcommittee, Section II consisting of Alexander N. Simon, Esq., chair presiding, Michelle H. Papierniak, lay member, and Devika E. Davis, Esq., member. During the meeting, the Subcommittee voted to set these cases for hearing before the district committee, but also voted to approve an agreed disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4 of the Rules of the Supreme Court of Virginia if Respondent were inclined to do so. The agreed disposition was entered into by the Virginia State Bar, by Edward L. Davis, Bar Counsel, and Fredrick Scott Kaufman, Respondent, *pro se*.

WHEREFORE, the Third District Subcommittee, Section II of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. During all times relevant hereto the Respondent Frederick Scott Kaufman ("Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia.

**VSB Docket No. 16-032-104668 - Complainant: Peter Jeffrey**

2. Beginning in 2012, Respondent represented Peter Jeffrey ("Complainant") in a divorce matter.

3. On February 2, 2013, Respondent reached an agreement with opposing counsel on the substance of the final decree and a related show cause order. On February 7, 2013, opposing counsel filed with the court a petition for name change with a cover letter stating that the final decree and show cause order were in circulation.
4. On March 4, 2013, Respondent endorsed and mailed the final decree and show cause order to the court, which received them on March 15, 2013.
5. Respondent provided copies of these materials to Complainant who concluded, erroneously, that his divorce was final.
6. Thereafter, Respondent had no further communication with Complainant for a period of two years.
7. The court entered the show cause order but rejected the final decree because of various deficiencies, and sent it to opposing counsel for correction. This process was repeated over the next two years until May 2015, when opposing counsel's law license was suspended for misconduct.
8. In June 2015, Complainant's wife hired another attorney, who obtained a revised final decree from the file, endorsed it, and sent it to Respondent.
9. The revised decree required Complainant to pay his wife's car loan. This provision was never in the previous versions of the decree and was never agreed upon by Respondent or Complainant. Respondent nonetheless endorsed the decree and forwarded it for entry.
10. Respondent did not inform Complainant about the status of the case or allow him the opportunity to review the revised final decree. Respondent acknowledged that he was remiss in endorsing the decree without carefully reviewing its content.
11. The court entered the final decree on July 31, 2015. Respondent did not inform Complainant about the entry of the final decree or send him a copy.
12. Thereafter, in October 2015, Complainant was noticed for a hearing on allegations that he was not making payments to his former spouse in accordance with the final decree.
13. Complainant contacted Respondent who informed him that, as long as Complainant had complied with the decree, he had nothing to worry about. Respondent did not mention the recent entry of the final decree on July 31, 2015 during this discussion.
14. Complainant appeared at the hearing on November 30, 2015, where he learned for the first time about the entry of the final decree on July 31, 2015, and its provision requiring him to pay his former wife's car note.

15. The time for noting an appeal of the final decree had passed by the time that Complainant learned about it.
16. After a series of continuances, the court heard the matter on March 21, 2016. Respondent appeared and testified that he had overlooked the critical language in July 2015 that required Complainant to pay the car note.
17. The court found that Complainant had paid all arrearages but that he owed his former wife \$11,683.77 on the car note.
18. Complainant, represented by counsel, filed a motion to set aside the final decree. On July 5, 2016, the court heard the motion, denied it and ordered Complainant to pay the amount owed to his former wife.
19. Complainant paid the amount as ordered which, to him, was a "real blow" financially.

**VSB Docket No. 16-032-105102 - Complainant: VSB/Trust Account**

20. The Bar received reports of two overdrafts against Respondent's trust account during a three-month period ending in February 2016, and investigated the matters.
21. The Bar's investigation revealed that Respondent had not deposited any client funds into his attorney trust account since 2012. He did, however, deposit earned fees into this account and was paying personal expenses directly from the account at the time of the overdrafts. Respondent has closed the account since then.

**II. NATURE OF MISCONDUCT**

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

**As to VSB Docket No. 16-032-104668:**

**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.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

**As to VSB Docket No. 16-032-105102:**

**RULE 1.15 Safekeeping Property**

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

**III. PUBLIC REPRIMAND WITH TERMS**

Accordingly, having approved the agreed disposition, it is the decision of the

Subcommittee to impose a Public Reprimand with Terms. The terms are:

1. For a period of two (2) years following service of the Subcommittee Determination in these matters, Respondent will maintain a policy of attorney malpractice insurance for any period of time that he is practicing law.
2. For a period of two (2) years following service of the Subcommittee Determination in these matters, Respondent will be on a period of disciplinary probation. Respondent will engage in no professional misconduct as defined by the Virginia Rules of Professional Conduct during such two-year probationary period. Any final determination of misconduct by any District Committee of the Virginia State Bar, the Disciplinary Board, or a three-judge court to have occurred during such period will be

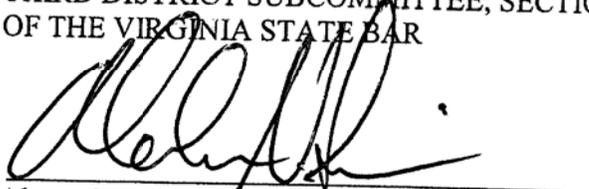
deemed a violation of the terms and conditions of this Agreed Disposition and will result in the imposition of the alternate sanction, a one-year suspension of his license to practice law in the Commonwealth of Virginia by the Virginia State Bar Disciplinary Board, in accordance with the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.G. The alternate sanction will not be imposed while the Respondent is appealing any adverse decision that might result in a probation violation. For clarification, a mere complaint, or a subcommittee finding that the Respondent may appeal, for example, shall not constitute a violation of this term. Only a final determination of misconduct by any District Committee of the Virginia State Bar, the Disciplinary Board or a three-judge circuit court to have occurred during the two-year probationary period will be deemed to be a violation of this term.

3. By September 30, 2016, Respondent will read the pamphlet, *Lawyers and Other People's Money*, available at [https://www.vsb.org/docs/Lawyers\\_OPM\\_electronic.pdf](https://www.vsb.org/docs/Lawyers_OPM_electronic.pdf). By September 30, 2016, Respondent will certify in writing to the bar counsel's office that he has done so.

If the terms are not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause why the alternate sanction should not be imposed: referral by the District Committee to the Disciplinary Board for the imposition of a one-year suspension of his law license, pursuant to Part 6, § IV, ¶ 13-15.G of the Rules of the Supreme Court of Virginia. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed.

Pursuant to Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

THIRD DISTRICT SUBCOMMITTEE, SECTION II  
OF THE VIRGINIA STATE BAR

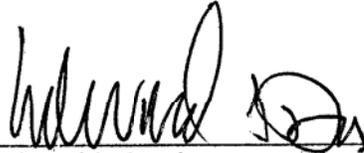


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Alexander N. Simon  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on the 9<sup>th</sup> day of September, 2016, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail, return receipt requested, to Fredrick Scott Kaufman, Respondent, at 9721 Needles Way, Glen Allen, VA 23060-3135, Respondent's last address of record with the Virginia State Bar.



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Edward L. Davis  
Bar Counsel