

VIRGINIA:

BEFORE THE SEVENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
SCOTT NADER KAZEM, ESQ.

VSB Docket No. 07-070-1280

**SUBCOMMITTEE DETERMINATION
(PUBLIC ADMONITION WITH TERMS)**

On February 25, 2009, a meeting in this matter was held before a duly convened Seventh District Subcommittee consisting of David A. Penrod, Esq., Richard D. Lyons, lay member, and William H. Atwill, Jr., Esq., presiding.

Pursuant to the Rules of the Virginia Supreme Court Part Six, Section IV, Paragraph 13.G.4., the Seventh District 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 the Respondent, Scott Nader Kazem, Esq. (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. In April of 2006, Mrs. Melissa Horinko hired the Respondent to obtain a divorce from her husband, Michael P. Horinko, (hereinafter the Complainant). On April 26, 2006, the Respondent filed a civil complaint for divorce on behalf of his client, Mrs. Horinko.
3. In September of 2006, Mr. Horinko, by and through his legal counsel, Edna R. Vincent, Esq., filed a counter-claim for divorce alleging Mrs. Horinko had romantic encounters between July of 2006 and August of 2006 with a person known to both parties. That person was the Respondent.

4. The Respondent, upon receipt of the cross-claim for divorce, non-suited his client's divorce petition because he realized he likely could be a necessary witness in the pending litigation.

5. Mrs. Horinko hired another lawyer to represent her legal interest in the divorce proceedings.

6. The Respondent's billing records reveal Mrs. Horinko paid him \$6,500 in advanced legal fees and he billed her \$2,173 for legal services rendered. Respondent transferred the balance to successor counsel.

II. NATURE OF MISCONDUCT

The Subcommittee finds that the following Rule of Professional Conduct/Disciplinary Rules has been violated:

RULE 3.7 Lawyer As Witness

(a) A lawyer shall not act as an advocate in an adversarial proceeding in which the lawyer is likely to be a necessary witness . . .

III. PUBLIC ADMONITION WITH TERMS

Accordingly, it is the unanimous decision of the Subcommittee to offer the Respondent a PUBLIC ADMONITION, WITH TERMS. Disposition of this complaint is predicated upon Respondent's compliance with the terms set forth below.

TERMS

I. The Respondent shall complete four (4) hours of continuing legal education in the area of Ethics. His Continuing Legal Education attendance obligation set forth in this paragraph shall not be applied toward his Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which he may be licensed to practice law. He shall

certify his compliance with the terms set forth in these paragraphs by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance Forms (Form 2) to Alfred L. Carr, Assistant Bar Counsel, at 707 East Main Street, Richmond, Suite 1500, Virginia 23219-2800, promptly following his attendance of such CLE program(s).

II. The Respondent shall register for the following two specified CLE courses and one other CLE course with at least one (1.0) hour of ethics of his choice for a total of four Ethics CLE credits:

- a. Taking the High Road – Ethics and Professionalism Issues in Family Law Cases (1.0 Ethics Credit)
- b. Collaborative Family Law: Practice and Ethics (2.0 Ethics Credits)

III. The terms and conditions shall be met and made known to the Bar by **April 30, 2009**.

IV. Upon satisfactory proof the above noted terms and conditions have been met, a PUBLIC ADMONITION WITH TERMS shall then be imposed.

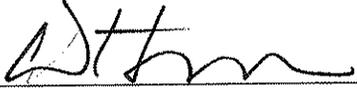
ALTERNATE DISPOSITION

If, however, Respondent violates any of the Terms set forth herein, then, and in such event, the Committee shall, as an alternative disposition to a Public Admonition, With Terms, certify this matter to the Virginia State Bar Disciplinary Board for proceedings to be conducted pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13.I.4. (“Proceedings Upon Certification for Sanction Determination”).

COSTS

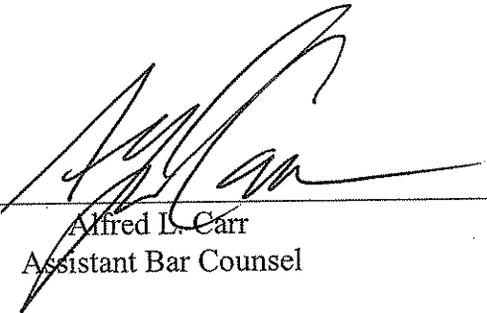
Pursuant to the Rules of the Supreme Court of Virginia Part Six, Section IV, Paragraph 13.B.8.c.1, the Clerk of the Disciplinary System shall assess costs.

SEVENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By 
William Henry Atwill, Jr., Esq.
Chair, Seventh District Subcommittee

CERTIFICATE OF SERVICE

I certify that on ~~February~~ ^{MARCH} 2, 2009, I mailed by Certified Mail, Return Receipt Requested, a true and correct copy of the Subcommittee Determination (PUBLIC Admonition, With Terms) to Scott Nader Kazem, Esquire, Respondent, at Kazem & Kazem, PLC, 101 East Market Street, Leesburg, VA 20176, Respondent's last address of record with the Virginia State Bar.


Alfred L. Carr
Assistant Bar Counsel