

VIRGINIA:

BEFORE THE SEVENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF DAVID LOUIS KONICK, ESQUIRE
VSB Docket Nos. 06-070-0783 & 06-070-2264

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND)

On the 20th day of February, 2007, a meeting in this matter was held before a duly convened a subcommittee of the Seventh District Committee consisting of Joseph W. Richmond, Jr., Esquire, Minor Eager, Lay Member, and Samuel R. Walker, Esquire, presiding.

Pursuant to Part 6, § IV, ¶ 13(G)(1)(d) of the Rules of Virginia Supreme Court, a subcommittee of the Seventh District Committee of the Virginia State Bar hereby serves upon the Respondent the following Agreed Disposition of a PUBLIC REPRIMAND, as set forth below:

I. FINDINGS OF FACT

1. At all times relevant hereto the Respondent, David Louis Konick, Esq. ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about April 28, 2005, Patricia M. Davis, Clerk of the Combined District Courts for Rappahannock County, Virginia, placed an employment advertisement in the local newspaper for a vacant position in the court Clerk's Office.
3. On or about May 4, 2005, Respondent Konick telephoned the Clerk's office and spoke with Ms. Davis about the vacant part-time position. Ms. Davis contends that Respondent made an obscene, lewd, profane, and lascivious statement to her containing profane language and strong sexual overtones. Ms. Davis, after having recognized Respondent Konick's voice on the

telephone, asked Respondent Konick whether he had any business with the Clerk's office. In response, Respondent just repeated the above statement to Ms. Davis. Ms. Davis told Virginia State Bar Investigator William H. Martin, II, that no one else witnessed Respondent's telephone call.

4. However, on or about May 9, 2005, Ms. Davis discussed Respondent's telephone call with Peter H. Luke, the Rappahannock County Commonwealth's Attorney. Mr. Luke informed Ms. Davis she could either forget about the telephone call or swear out a warrant for Respondent Konick's arrest.

5. On August 16, 2005, the General District Court of Rappahannock County convicted Respondent Konick of using obscene, vulgar, profane, lewd, lascivious or indecent language to make an obscene suggestion or proposal to, or threaten an illegal or immoral act with the intent to coerce, intimidate or harass another over the telephone or citizens band radio, in violation of Virginia Code § 18.2-427 (VCC Code TEL-3245-M1).

6. Respondent Konick appealed his misdemeanor conviction to the Rappahannock County Circuit Court. A Circuit Court jury then convicted Respondent Konick of violating the same Virginia Code section. After this jury convicted Respondent Konick, it imposed a fine of \$2,000.00 upon Respondent Konick. Respondent Konick did not appeal the Circuit Court conviction.

7. Respondent Konick categorically denies that he used any profane words. However, he does not deny making the telephone call or that the call had sexual overtones. Respondent contends that he intended his telephone call to Ms. Davis to be a joke because he and Ms. Davis often engaged in off-color banter. Respondent contends that he extended an apology to Ms. Davis for his inappropriate and unprofessional behavior.

II. NATURE OF MISCONDUCT

The Subcommittee finds that the following Rules of Professional Conduct have been violated:

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 REPRIMAND

Accordingly, it is the decision of the Subcommittee that a PUBLIC REPRIMAND shall be imposed, and this matter shall be closed.

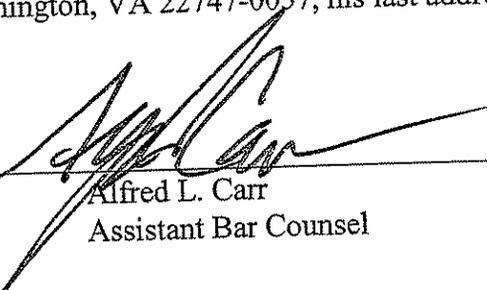
Pursuant to Part Six, § IV, ¶ 13(B)(8)(c)(1) of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess costs.

SEVENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By Samuel R. Walker
Samuel R. Walker, Chair/Chair Designate

CERTIFICATE OF SERVICE

I certify that I have this 2ND day of MARCH, 2007, mailed a true and correct copy of the Subcommittee Determination (PUBLIC REPRIMAND) by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Respondent, David Louis Konick, Esquire, at Rock Mills, P.O. Box 57, Washington, VA 22747-0057, his last address of record with the Virginia State Bar.



Alfred L. Carr
Assistant Bar Counsel