

VIRGINIA:

BEFORE THE FIFTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
JOSEPH EDWARD MCGUIRE, JR.

VS B Docket No. 15-053-100825

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On September 17, 2015 a meeting was held in this matter before a duly convened Fifth District Subcommittee consisting of Susan Jeanne Stanford-Stoney, Christie Ann Leary, and Daniel H. Aminoff. During the meeting, the Subcommittee 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. The agreed disposition was entered into by the Virginia State Bar, by Elizabeth K. Shoenfeld, Assistant Bar Counsel, and Joseph Edward McGuire, Jr., Respondent, *pro se*.

WHEREFORE, the Fifth District Subcommittee of the Virginia State Bar serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all relevant times, Joseph Edward McGuire, Jr. ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about March 6, 2014, Patricia Ellen DeAutremont retained Respondent for the purpose of having two Qualified Domestic Relations Orders ("QDROs") entered. The QDROs were required for Ms. DeAutremont to access her retirement and her ex-husband's retirement.
3. Respondent required that Ms. DeAutremont pay him a \$700 retainer for fees and expenses. On March 6, 2014, Ms. DeAutremont wrote Respondent a check for \$700. Respondent did not deposit this check into his trust account; rather, he deposited it into his operating account.

4. On March 25, 2014, Ms. DeAutremont emailed Respondent to check the status of the QDROs. Respondent did not respond.
5. On June 1, 2014, Ms. DeAutremont emailed Respondent to follow up on the status of the QDROs. Respondent replied that he needed her ex-husband's address. Ms. DeAutremont provided it the following day, and Respondent replied that was all he needed.
6. Later that same month, Ms. DeAutremont again emailed Respondent to follow up on the status of the QDROs.
7. On June 21, 2014, Respondent emailed Ms. DeAutremont, stating "let me call the firm that is preparing the order." When he wrote this email, Respondent had not yet contacted a firm to prepare the order.
8. On June 25, 2014, Respondent paid \$299 to QDRODesk in order to "get the process started." This is the cost of one QDRO through that company.
9. On July 4, 2014, Ms. DeAutremont emailed Respondent and told him that she was scared and was going to lose her home because she could not access her retirement funds.
10. On July 9, 2014, Respondent emailed Ms. DeAutremont, "I am setting it on the docket for the 25th for entry."
11. Respondent never set any matter involving Ms. DeAutremont for a hearing on July 25, 2014.
12. On July 25, 2014, Ms. DeAutremont emailed Respondent to follow up on the status of the QDROs. After receiving no response, she followed up again three days later. Respondent wrote:

Here's what I have. I paid to have yours prepared and will send you the bank statement showing that tomorrow as I was not in the office today. I'll even send you the proof of the phone call I made to provide the phone call made [sic] to provide the info. That money has been spent so if you want me to throw it away it's up to you.

13. Ms. DeAutremont responded that she did not understand this email. Three days later, Respondent wrote:

Let me bring you up to date. Ordinarily, I would have hired a local Paralegal to prepare the QDROs, but this would have been far more expensive. As you have limited funds (I'm doing this for free basically), I decided to go the Internet rout [sic]. You will note from the attached Statement, I paid a from [sic] on June 25th to prepare, being assured I would have it back in time to file our Motion to put it on the docket for the 31st entry of the Order. To date, I still have not achieved [sic] it. My question, I can use what I have paid to the Internet firm on another case. Do you want me to go the more expensive route or start to rattle their cage a little more.

14. Ms. DeAutremont replied that she did not get any attachment, but that Respondent should rattle the internet firm's cage.
15. On August 12, 2014, Ms. DeAutremont emailed Respondent with a request for an update on the status of the QDROs.
16. On August 14, 2014, Respondent emailed Ms. DeAutremont and asked for her mailing address. In that email, Respondent did not provide any update on the status of the QDROs.
17. On August 23, 2014, Ms. DeAutremont emailed Respondent with another request for an update on the status of the QDROs.
18. On August 25, 2014, Respondent emailed Ms. DeAutremont with a request that she call his office for an update. That same day, Ms. DeAutremont called Respondent's office and spoke with him. During the conversation, Respondent said that he needed the name of Ms. DeAutremont's retirement plan in order to complete the QDROs, even though Ms. DeAutremont had previously provided it.
19. On September 9, 2014, Ms. DeAutremont emailed Respondent with another request for an update on the status of the QDROs. Respondent did not reply to this email.
20. On September 16, 2014, Ms. DeAutremont emailed Respondent with another request for an update on the status of the QDROs. Respondent did not reply to this email.
21. On September 19, 2014, Respondent noticed his motion for entry of a QDRO for October 3, 2014.
22. Respondent had difficulty finding someone to perform service adequately in Independence, Missouri, where Mr. DeAutremont lived.
23. Respondent canceled the October 3, 2014 hearing. He claimed the cancellation was necessary because he did not obtain service of process on Mr. DeAutremont on time.
24. On October 24, 2014, Respondent noticed his motion for entry of a QDRO for November 7, 2014.
25. Respondent subsequently canceled the November 7, 2014 hearing. He claimed that cancellation was necessary because the return of service on Mr. DeAutremont was deficient.
26. On November 14, 2014, Respondent noticed his motion for entry of a QDRO for December 5, 2014.
27. Respondent subsequently canceled the December 5, 2014 hearing. He claimed that cancellation was necessary because the process server he hired did not serve Mr. DeAutremont.

28. In January 2015, the QDRO for Ms. DeAutremont's retirement was entered by the Prince William County Circuit Court.

II. NATURE OF MISCONDUCT

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

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.

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.

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. Respondent shall review the Virginia State Bar publication Lawyers and Other People's Money, 5th Edition, available on the Virginia State Bar's website at www.vsb.org, on or before January 1, 2016.
2. Respondent is placed on probation for a period of two (2) years commencing upon the issuance of a final order approving this agreed disposition. During such probationary period, Respondent will not engage in professional misconduct as defined by the Virginia Rules of Professional Conduct or the disciplinary rules of any other jurisdiction in which the Respondent is admitted to practice law. Any final determination that Respondent

engaged in professional misconduct during this probationary period made by a District Subcommittee, District Committee, the Disciplinary Board, a Three-Judge Panel or the Supreme Court of Virginia shall conclusively be deemed to be a violation of this Term.

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 a Certification for Sanction Determination should not be imposed. 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.

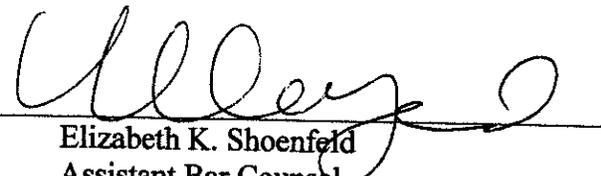
Pursuant to Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

FIFTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR


Susan Jeanne Stanford-Stoney
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on September 23 2015, a true and complete copy of the Subcommittee Determination (Public Reprimand with Terms) was sent by certified mail to Joseph Edward McGuire, Jr., Respondent, at Joseph E. McGuire, Jr., Esq. P.C., Suite H, 4391 Ridgewood Center Drive, Woodbridge, VA 22192, Respondent's last address of record with the Virginia State Bar.


Elizabeth K. Shoenfeld
Assistant Bar Counsel