

VIRGINIA:

**BEFORE THE FIFTH DISTRICT SUBCOMMITTEE,
SECTION III OF THE VIRGINIA STATE BAR**

**IN THE MATTERS OF PAUL ANDREW MURPHY
VSB Docket Nos. 11-053-087272 and 12-053-092130**

JUN 30 2014

**SUBCOMMITTEE DETERMINATION
Public Reprimand With Terms**

On 19 June 2014 a meeting was held in these matters before a duly convened Fifth District Subcommittee, Section III, consisting of Timothy M. Purnell, Chair, Garth M. Wainman, Member, and Patricia C. Palmer, Lay Member.

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 Prescott L. Prince, Assistant Bar Counsel, and Paul Andrew Murphy, Respondent, *pro se*.

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

I. FINDINGS OF FACT

1. At all times relevant to the conduct set forth herein, Paul Andrew Murphy (hereinafter Respondent or Mr. Murphy) was an attorney licensed to practice law in the Commonwealth of Virginia.

2. In March of 2011, the Virginia State Bar received a bar complaint against Paul Andrew Murphy (VSB Case No. 11-053-087272) alleging ethical misconduct in the representation of a client, the Complainant in the matter.

3. In June of 2012, the Virginia State Bar received an unrelated bar complaint in against Paul Andrew Murphy (VSB Case No. 12-053-092130) which also alleged ethical misconduct in the representation of a client.

4. Investigations were opened by the Virginia State Bar to investigate each of these complaints.

5. Each of the investigations revealed that there was insufficient evidence to sustain the underlying complaint but, in the course of the investigations, Mr. Murphy acknowledged that he did not maintain his trust account in accordance with Rule 1.15 and relevant Legal Ethics Opinions.

- a. failing to perform reconciliations of his cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance on a monthly basis as required by Rule 1.15(d)(3)(ii);
- b. failing to perform reconciliations of his subsidiary ledgers on a quarterly basis as is required by Rule 1.15(d)(3)(i) and Rule 1.15(d)(3)(iii);
- c. failing to maintain all trust account records for at least five calendar years after termination of the representation or fiduciary responsibility as is required by Rule 1.15(c)(4).

6. Mr. Murphy further acknowledged that in VSB Docket No 12-053-092130, funds received from the client were deposited directly into his office operating account before he had performed legal services to earn such funds.

II. NATURE OF MISCONDUCT

Such conduct by Paul Andrew Murphy constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct.

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 or placed in a safe deposit box or other place of safekeeping as soon as practicable.

(b) Specific Duties. A lawyer shall:

- (2) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

- (1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.
- (2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust. The ledger should clearly identify:
 - (i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and
 - (ii) any unexpended balance.
- (4) All records subject to this Rule shall be preserved for at least five calendar years after termination of the representation or fiduciary responsibility.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) Reconciliations.

(i) At least quarterly a reconciliation shall be made that reflects the trust account balance for each client, person or other entity.

(ii) A monthly reconciliation shall be made of the cash balance that is derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance.

(iii) At least quarterly, a reconciliation shall be made that reconciles the cash balance from (d)(3)(ii) above and the subsidiary ledger balance from (d)(3)(i).

(iv) Reconciliations must be approved by a lawyer in the law firm.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

III. PUBLIC REPRIMAND WITH TERMS

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

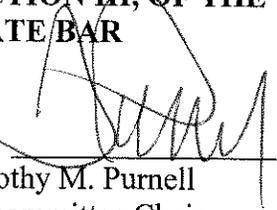
Subcommittee to impose a **Public Reprimand With Terms**. The terms are:

Within sixty (60) days of the entry of the Subcommittee's Determination, Respondent will read the publication "*Lawyers and Other People's Money*", Fifth Edition, by Frank A. Thomas, III and Kathleen M. Uston, in full and provide certification to the Virginia State Bar that he has complied with this requirement. Such certification shall be forwarded to Prescott L. Prince, Assistant Bar Counsel, at Virginia State Bar, 1111 E. Main Street, Ste 700 Richmond, VA 23219.

If, however, all the terms and conditions are not met by Respondent in accordance with the specifications provided above, the alternative disposition in these matters shall be a Certification to the Disciplinary Board for Sanction Determination pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-15.G. 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 Paragraph 13-9.E of the Rules of Court. Respondent agrees that any proceeding to address compliance with terms under this Agreed Disposition will be heard by the Disciplinary Board.

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 an administrative fee and costs.

**FIFTH DISTRICT SUBCOMMITTEE,
SECTION III, OF THE VIRGINIA
STATE BAR**

By: 

Timothy M. Purnell
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on 30 June, 2014, a true and complete copy of the Subcommittee Determination (PUBLIC Reprimand With Terms) was sent by certified mail, return receipt requested to Paul Andrew Murphy, Respondent, at 6231 Leesburg Pike Ste 404, Falls Church, VA 22044, Respondent's last address of record with the Virginia State Bar.



Prescott L. Prince
Assistant Bar Counsel