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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

IN THE MATTERS OF  
TINA ELIZABETH ORR

MAY 23 2011

VSB Docket Nos. 09-021-076226  
09-021-077701  
10-021-081979  
10-021-083269

Case No. CL10-7966  
VSB CLERK'S OFFICE

MEMORANDUM ORDER

THIS MATTER came to be heard on May 4, 2011 by duly noticed teleconference upon a proposed Agreed Disposition entered into between the parties, which was presented to a Three-Judge Court duly impaneled pursuant to Section 54.1-3935 of the Code of Virginia, 1950, as amended, consisting of The Honorable Marjorie T. Arrington, Judge of the First Judicial Circuit, Chief Judge presiding ("Chief Judge"), The Honorable William C. Andrews, III, Retired Judge of the Eighth Judicial Circuit, and the Honorable Ray W. Grubbs, Retired Judge of the Twenty-Seventh Judicial Circuit ("Panel"). The Virginia State Bar appeared through Assistant Bar Counsel M. Brent Saunders, and the Respondent appeared *pro se*.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, applicable to this proceeding pursuant to §54.1-3935(B) of the Code of Virginia, 1950, as amended, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Panel for its consideration.

The Chief Judge swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his ability to be impartial in these matters. Each member, including the Chief Judge, verified they had no such interests.

The Panel heard argument from the parties and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Panel reconvened and announced its unanimous acceptance of the Agreed Disposition.

#### I. FINDINGS OF FACT

The Panel finds the following facts by clear and convincing evidence as stipulated by the parties:

1. Respondent was licensed to practice law in the Commonwealth of Virginia in 2001, and remained so licensed at all times relevant hereto except as set out under paragraphs 23-25 below.

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2. In March 2008, Respondent agreed to prepare a separation agreement and secure a no-fault divorce on behalf of Tonja M. Dudley ("Dudley") for a flat fee of \$750.00, which Dudley paid in full in the form of check that Dudley issued and delivered to Respondent on March 25, 2008.

3. When Respondent failed to prepare a separation agreement for Dudley's review within the timeframe she expected, Dudley telephoned Respondent's office three times and left messages that were not returned.

4. Respondent advised Dudley in late April 2008 that she had prepared a separation agreement that was ready for Dudley's review. Dudley promptly signed the agreement, secured the signature of her husband on the agreement, and returned the fully executed agreement to Respondent.

5. Respondent filed a complaint for a no-fault divorce in the Norfolk Circuit Court on June 5, 2008. Subsequent to the filing of the complaint, Dudley's husband

threatened to not return the parties' minor child to Dudley at the end of a visitation period. Due to those threats, Dudley desired the entry of the divorce decree as soon as possible, and Dudley thus telephoned Respondent daily over a two-week period in the June/July 2008 timeframe to discuss expediting the entry of the divorce decree, but Respondent did not answer the calls or return Dudley's messages.

6. A no-fault divorce decree was entered on September 16, 2008.

7. Respondent did not deposit Dudley's \$750.00 advance payment into a trust account, and instead cashed Dudley's \$750.00 check on March 28, 2008.

8. During the course of the investigation of this complaint, Respondent initially told the bar that she did not know if Dudley's monies went into a trust account. Respondent subsequently admitted to the bar that she had not deposited Dudley's monies into trust and that she in fact did not have a trust account at the time that she undertook representation of Dudley. Respondent further stated to the bar that Dudley's monies were not placed into trust because Respondent had earned the \$750.00 fee for the representation at the time she received those monies from Dudley.

9. Dudley issued a \$75.00 check to Respondent dated June 13, 2008 for service fees in the divorce case. Respondent deposited that check directly into her firm's operating account at Wachovia titled in the name of Orr & Associates (Account # \*\*\*\*\*1465).

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10. In September 2006, Alfred V. Bowman ("Bowman") hired Respondent to set up two business entities and provide legal representation with regard to Bowman's business activities, and paid Respondent an advance fee of \$5,000.00 for that

representation.

Respondent prepared two contemporaneous representation agreements dated September 13, 2006. One agreement pertained to Bowman's business Playground Estates, LLC, and stated that: i) Respondent would charge \$250.00 for setting up that entity; ii) the advance payment of \$2,250.00 paid by Bowman was a "retainer" for legal representation relative to Playground Estates, LLC for which Respondent would charge her hourly rates of \$200.00 and \$250.00 (in-court) plus a 5% commission for negotiating recording contracts and \$100 per year for acting as registered agent; and iii) \$1,500.00 of the advance payment was "non-refundable." The other agreement pertains to Bowman's business Playground Entertainment, LLC, and stated that: i) Respondent would charge \$750.00 for setting up that entity and drafting a contract; ii) the advance payment of \$2,750.00 paid by Bowman was a "retainer" for legal representation relative to Playground Entertainment, LLC for which Respondent would charge her hourly rates of \$200.00 and \$250.00 (in-court) plus a 5% commission for negotiating recording contracts and \$100 per year for acting as registered agent; and iii) \$1,500.00 of the advance payment was "non-refundable."

11. In January 2007, Bowman hired Respondent to represent him in child custody and support matters, and paid Respondent an advance fee of \$2,500.00 for that representation. Respondent prepared a representation agreement dated January 26, 2007 which stated: i) the advance payment of \$2,500.00 was a "retainer;" ii) \$1,500.00 of the advance payment was "non-refundable;" and iii) that Bowman would be charged for the representation at Respondent's hourly rates of \$200.00 and \$250.00 (in-court).

12. In or about January or February 2007, while still representing Bowman in

the above matters, Respondent solicited from Bowman a \$30,000.00 investment in Esquire Entertainment Group, Inc. ("EEG"), a Virginia corporation formed by Respondent in 2005 for the purpose of engaging in concert promotion in which Respondent was the sole officer, director and shareholder. Respondent solicited the monies from Bowman for the specific purpose of funding a concert to be held on August 25, 2007 in Hampton, Virginia. Respondent prepared and presented to Bowman a Concert Investment Agreement that contained, *inter alia*, the following provisions:

- Bowman was to receive a return on his investment of 120%, plus an incentive bonus of \$5,000.00 and a possible additional 5% bonus, due and payable within 30 days after the concert;
- In the event of the cancellation of the concert, Bowman was to receive a refund of his investment less "a pro-rata share of any losses to date";
- Bowman's monies were characterized as "venture capital funds" rendering his investment "at risk" for any losses realized in the production of the concert; and
- Respondent was obligated to provide to Bowman "a full itemized accounting of all gross revenues, expenses and profit."

On February 13, 2007, Respondent and Bowman signed the Concert Investment Agreement and Bowman delivered a check to Respondent made payable to EEG in the amount of \$30,000.00. On that same date, Respondent deposited Bowman's \$30,000.00 check into an EEG business checking account at SunTrust (Account # \*\*\*\*\*9606).

On May 31, 2007, EEG's corporate existence was terminated due to the non-payment of the annual fee and non-filing of the annual report.

The concert scheduled for August 25, 2007 did not take place on that or any other date after Respondent was apparently unable to raise the additional monies needed to hold the concert.

13. On September 27, 2007, Bowman sent a letter to Respondent in which he terminated the legal representation and demanded: i) the return of his \$30,000.00

investment monies; ii) an accounting of the expenditure of the advance fee payments he made for the legal representation; and iii) a refund of all unearned fees. Respondent responded by letter to Bowman dated October 3, 2007, in which she confirmed her intention to return Bowman's investment money "as quickly as possible," enclosed a check in the amount of \$500.00 drawn off of Respondent's operating account at Wachovia titled in the name of Orr & Associates (Account # \*\*\*\*\*1465), pledged to make payments to him in the amount of \$500-1,000/month and forward to him the deposit she had paid for the concert upon her receipt of the refund of those monies, asked Bowman to reconsider his decision to terminate Respondent's representation, and promised to provide him with a full accounting of the legal services she had provided to him to date. Bowman replied to Respondent by letter dated October 10, 2007, in which he confirmed his desire to terminate the legal representation and reasserted his demand for an accounting and refund of the advance fees he had paid for the legal representation.

14. Respondent subsequently failed to provide Bowman with either an accounting or refund of any investment or advance fee monies. As a consequence, Bowman hired legal counsel who filed a lawsuit against Respondent in April 2008 in the Virginia Beach Circuit Court and requested judgment in the principal amount of \$37,000.00 for breach of contract and conversion (CL08-002112-00)("Lawsuit"). The Lawsuit alleged, among other things, that Respondent performed little to no legal services on behalf of Bowman and had failed and refused to: provide him an accounting of the expenditure of the \$7,500.00 he paid in advance fees, refund any unearned advance legal fees, and refund all but \$500.00 of the \$30,000.00 investment. Respondent was personally served with process and failed to file a response to the Lawsuit. A Default

Judgment Order was entered on June 27, 2008 awarding Bowman judgment against Respondent in the amount of \$37,000.00 with interest from October 3, 2007.

15. To date, Respondent has neither made any payments on the judgment nor provided any accounting to Bowman of the expenditure of any of the \$37,000.00.

16. Debtor's interrogatories were conducted on behalf of Bowman on September 4, 2008 in conjunction with efforts to collect the judgment entered in the Lawsuit. During those debtor's interrogatories, Respondent stated under oath that she took Bowman's fee monies out of trust after she had "earned it" by setting up the two business entities and performing work on a couple of issues.

17. Respondent did not deposit into trust any of the \$7,500.00 in advance fee payments made by Bowman for the legal representation.

Bowman issued a \$4,500.00 check to Respondent on October 20, 2006 toward the total \$5,000.00 advance fee for Respondent's representation in the business matters which Respondent cashed on October 23, 2006, just three days after the check was issued and several weeks before Respondent set up the first business entity.

Bowman paid the advance fee for the child custody and support representation in the form of two checks. The first check was issued in the amount of \$500.00 on January 26, 2007, the date Bowman signed the agreement for that representation. On January 29, 2007, Respondent cashed that check, retained \$400.00, and used the remaining \$100.00 to open a regular (non-trust) business checking account at BB&T in the name of "Orr and Associates LLC." The second check was issued in the amount of \$2,000.00 on February 5, 2007. On that same date, Respondent cashed that check.

Respondent stated to the bar that Bowman's monies were not placed into trust

because Respondent had performed the legal work and had thus earned the fees for the representation at the time she received those monies from Bowman.

18. Respondent did not keep track of the time she spent working on Bowman's legal matters, maintain records of the funds received from Bowman, or provide Bowman any billings for the legal representation or accounting of Bowman's funds or of the services provided.

19. Respondent did not earn all or even a majority of the \$7,500.00 advance fees Bowman paid for the legal representation, and failed and refused to refund to Bowman the unearned portion of those fees following termination of the representation.

20. Although the representation agreements for the business matters both state that Respondent would charge a \$100.00 annual fee to act as registered agent for the respective business entities, and Respondent is unable to account for the disposition of Bowman's \$5,000.00 advance fee payments, Respondent sent Bowman a bill in September 2007 for \$150.00 as and for her "Registered Agent Fee" for Playground Entertainment, LLC.

21. Respondent converted and misappropriated part of Bowman's \$30,000.00 concert investment monies. The statements for the EEG business checking account at SunTrust (Account # \*\*\*\*\*9606) into which Respondent deposited Bowman's \$30,000.00 check on February 13, 2007 reflect: i) only one expenditure related to the concert, i.e., payment of a deposit of \$11,000.00 on February 15, 2007 to the agent for the act scheduled to perform at the concert; ii) no other expenditures related to the concert; and iii) a balance in the account of only \$314.78 as of February 28, 2007<sup>1</sup>.

The statements also reflect multiple expenditures of Bowman's monies for

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<sup>1</sup> Respondent closed this account on March 23, 2007.

purposes unrelated to the concert, including:

- Check # 1274 dated 2/15/07 in the amount of \$9,897.00 made payable to "CASH";
  - Transfer of \$5,700.00 on 2/15/07 to an IOLTA account at SunTrust titled in the name of EEG (Account # 0000000000101)(and subsequent disbursement of those monies for purposes unrelated to the concert);
  - Check # 1275 dated 2/15/07 in the amount of \$1,200.00 made payable to "Mr. Bruce Williams" for "Loan Payment"<sup>2</sup>;
  - Checks issued for client matters, i.e., court fees, filing fees and other payments made on behalf of clients;
- and
- Various debits for personal purchases such as gas, utilities, telephone, movies, groceries, meals, insurance, storage, postage, etc.

With the exception of the \$11,000.00 deposit payment, Respondent did not produce a single invoice, receipt or other document related to the expenditure of Bowman's \$30,000.00 investment monies and/or expenses incurred for the concert as demanded in the Subpoena *Duces Tecum* issued to Respondent in this case.

As to the remaining \$19,000.00 balance of Bowman's monies, Respondent has represented that she used \$10,000.00 "within" EEG for "costs associated with the operation of the office" which she operated out of her law office with no employees, and used \$8,000.00 between February and June 2007 toward expenses associated with the concert including a payment to herself of \$4,000.00.

On June 2, 2008, Respondent received a partial refund of the \$11,000.00 paid on February 15, 2007 to the agent for the act scheduled to perform at the concert.

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<sup>2</sup> When asked about this check, Respondent claimed to the bar's investigator that Mr. Williams is in public relations and she had hired him to promote the concert. Contrary to that representation, Respondent did not hire Mr. Williams to do any consulting work for the concert, but rather obtained a personal loan from Mr. Williams that she partially repaid with Bowman's monies.

Respondent did not forward to Bowman the \$3,000.00 refund, and instead spent that money for her personal use.

22. During the course of the investigation of this matter, it was discovered that Respondent had made multiple improper deposits and disbursements of monies into and from various bank accounts maintained by Respondent, as follows:

- Deposits of advance payments from clients and other client monies into the EEG business checking account at SunTrust (Account # \*\*\*\*\*9606);
- Disbursements from the EEG business checking account at SunTrust (Account # \*\*\*\*\*9606) on behalf of clients with no corresponding transfer of client monies from trust;
- Deposits of escrow monies into the BB&T business checking account titled in the name of Orr and Associates, LLC (Account # \*\*\*\*\*9236);
- Disbursements from the BB&T business checking account titled in the name of Orr and Associates, LLC (Account # \*\*\*\*\*9236) on behalf of clients with no corresponding transfer of client monies from trust;
- Deposit of escrow monies into the Orr & Associates business checking account at Wachovia (Account # \*\*\*\*\*1465);
- Disbursements from the Orr & Associates business checking account at Wachovia (Account # \*\*\*\*\*1465) on behalf of clients with no corresponding transfer of client monies from trust; and
- Deposits into the IOLTA account at SunTrust titled in the name of EEG (Account # \*\*\*\*\*0101) of monies received on behalf of clients of Respondent's law practice into this account which was not clearly identified as a trust account for

Respondent's law practice. Respondent also retained the interest earned on this account and disbursed client monies from this account to the EEG business checking account at SunTrust (Account # \*\*\*\*\*9606).

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23. Respondent failed to fully comply with a Subpoena *Duces Tecum* served on Respondent on March 23, 2009 in Docket No. 09-021-077701. On September 3, 2009, the bar sent Respondent a letter that directed her to supplement her initial response by September 14, 2009. When Respondent failed to supplement her initial response, on September 22, 2009, Bar Counsel, pursuant to Rules of the Virginia Supreme Court, Part 6, Section IV, Paragraph 13-6.G.3, filed with the Disciplinary Board a Notice of Noncompliance and Request for Interim Suspension requesting the interim suspension of Respondent's law license and advising Respondent of her right to file a petition with the Disciplinary Board on or before October 2, 2009 to withhold the interim suspension of her license pending a hearing. A copy of the Notice of Noncompliance and Request for Interim Suspension was served on Respondent on September 22, 2009 by mailing by certified mail, return receipt requested, to Respondent's address of record with the bar. Respondent personally signed the certified mail return receipt for the Notice of Noncompliance and Request for Interim Suspension on September 23, 2009.

24. Respondent failed to file a petition with the Disciplinary Board to withhold the interim suspension of her license pending a hearing, and on October 6, 2009, the Disciplinary Board issued an Interim Suspension Order ("Order"), pursuant to which Orr's license to practice law in the Commonwealth of Virginia was suspended effective October 6, 2009. A copy of the Order was served on Respondent on October 6,

2009 by mailing by certified mail, return receipt requested, to Respondent's address of record with the bar. Respondent personally signed the certified mail return receipt for the Order on October 13, 2009.

25. The interim suspension was lifted by order entered on November 6, 2009.

26. Respondent made at least two (2) court appearances on behalf of clients while her law license was suspended:

- On October 9, 2009, Respondent appeared on behalf of her client David Alexander in the Chesapeake Juvenile and Domestic Relations District Court.

- On October 27, 2009, Respondent appeared at a hearing before The Honorable Aundria D. Foster in the Newport News Circuit Court on behalf of Rodrico Gore, whom Respondent began representing in or about May 2009 in a pending contempt proceeding in *Jasmine Russell Gore v. Rodrico Gore* (Case No. 0800060-AF). Following the October 27, 2009 hearing, Respondent presented an order memorializing the Court's rulings that was entered on October 27, 2009.

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27. In November 2009, Respondent was hired to defend Marvin Lee Kennedy ("Kennedy") against felony charges of attempting to possess a firearm after being convicted of a violent felony and making a false statement in connection with the purchase of a firearm.

28. Respondent prepared a Representation Agreement that was dated and executed on November 23, 2009. Under the terms of the Representation Agreement:

- Respondent agreed to represent Kennedy on the two felony charges, including “up to 3 court appearance[s] (additional appearances are an additional \$500 each)”; and
- Kennedy was required to pay a “deposit” of \$1,800.00 pursuant to a scheduled installment plan that required the entire \$1,800.00 to be paid by January 30, 2010.

The representation was not limited to the Virginia Beach General District Court.

The Representation Agreement stated in bold letters “NO REFUNDS”. At Respondent’s request, Kennedy also signed an intake form on November 23, 2009 that stated in bold letters “NO REFUNDS”.

29. On January 28, 2010, Kennedy waived his right to a preliminary hearing and the two criminal charges were certified to a grand jury. Following the issuance of indictments on the two criminal charges on February 16, 2010, Kennedy hired substitute counsel to represent him due to his dissatisfaction with Respondent. An order substituting Kennedy’s new counsel was entered on April 12, 2010. Respondent did not represent Kennedy on the two criminal charges in the Virginia Beach Circuit Court.

30. Kennedy paid Respondent a total of \$1,400.00 for the representation, as follows:

- \$600.00 on November 13, 2009;
- \$400.00 on January 5, 2010; and
- \$400.00 on January 28, 2010.

31. Respondent did not place any of Kennedy’s monies into trust.

32. Respondent stated to the bar that Kennedy’s monies were not placed into

trust because Respondent had earned the monies for the representation at the time she received those monies from Kennedy. She also admitted that, while she does have a trust account, she does not perform reconciliations of it.

## II. NATURE OF MISCONDUCT

The Panel finds that such conduct by Tina Elizabeth Orr constitutes misconduct in violation of the following Rules of Professional Conduct as stipulated by the parties:

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### 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.

### RULE 1.15 Safekeeping Property

(a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

- (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
- (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(c) A lawyer shall:

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

(e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must produce the records and information required by this Rule.

- (1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:
  - (i) a cash receipts journal or journals listing all funds received, the sources of the receipts

and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;

(ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;

(iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;

(iv) reconciliations and supporting records required under this Rule;

(v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

(f) Required Escrow Accounting Procedures. The following minimum escrow accounting procedures are applicable to all escrow accounts subject to Rule 1.15(a) and (c) by lawyers practicing in Virginia.

(1) Insufficient fund check reporting.

(i) Clearly identified escrow accounts required. A lawyer or law firm shall deposit all funds held in escrow in a clearly identified account, and shall inform the financial institution in writing of the purpose and identify of such account. Lawyer escrow accounts shall be maintained only in financial institutions approved by the Virginia State Bar, except as otherwise expressly directed in writing by the client for whom the funds are being deposited;

(5) Reconciliations.

(i) A monthly reconciliation shall be made at month end of the cash balance derived from the cash receipts journal and cash disbursements journal total, the escrow account checkbook balance, and the escrow account bank statement balance;

(ii) A periodic reconciliation shall be made at least quarter annually, within 30 days after the close of the period, reconciling cash balances to the subsidiary ledger trial balance;

(iii) Reconciliations shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.

#### RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(a) knowingly make a false statement of material fact

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;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

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RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable.

RULE 1.15 Safekeeping Property

(a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or

(2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(b) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.

(c) A lawyer shall:

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them.

(4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.

(e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must

produce the records and information required by this Rule.

(1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:

(i) a cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;

(ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;

(iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;

(iv) reconciliations and supporting records required under this Rule;

(v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

(f) Required Escrow Accounting Procedures. The following minimum escrow accounting procedures are applicable to all escrow accounts subject to Rule 1.15(a) and (c) by lawyers practicing in Virginia.

(1) Insufficient fund check reporting.

(i) Clearly identified escrow accounts required. A lawyer or law firm shall deposit all funds held in escrow in a clearly identified account, and shall inform the financial institution in writing of the purpose and identify of such account. Lawyer escrow accounts shall be maintained only in financial institutions approved by the Virginia State Bar, except as otherwise expressly directed in writing by the client for whom the funds are being deposited;

(5) Reconciliations.

(i) A monthly reconciliation shall be made at month end of the cash balance derived from the cash receipts journal and cash disbursements journal total, the escrow account checkbook balance, and the escrow account bank statement balance;

(ii) A periodic reconciliation shall be made at least quarter annually, within 30 days after the close of the period, reconciling cash balances to the subsidiary ledger trial balance;

(iii) Reconciliations shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.

**RULE 1.16 Declining Or Terminating Representation**

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client,

allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

#### RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(a) knowingly make a false statement of material fact

#### 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;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

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#### RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law;

#### Rule 5.5. Unauthorized Practice Of Law; Multijurisdictional Practice of Law

(c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

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#### 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.

#### RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable.

#### RULE 1.15 Safekeeping Property

(a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) funds reasonably sufficient to pay service or other charges or fees imposed by the

financial institution may be deposited therein; or

(2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(c) A lawyer shall:

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them.

(e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must produce the records and information required by this Rule.

(1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:

(i) a cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;

(ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;

(iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;

(iv) reconciliations and supporting records required under this Rule;

(v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

#### RULE 1.16 Declining Or Terminating Representation

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, it is hereby **ORDERED** that the license of Respondent, Tina Elizabeth Orr, to practice law in the Commonwealth of Virginia, be, and the same hereby is, **SUSPENDED** for a period of five (5) years effective May 31, 2011, with terms. The terms with which Respondent must comply are as follows:

Respondent shall pay to Alfred V. Bowman, the complainant in Docket Number 09-021-077701, the sum of \$37,000.00, payable in equal monthly installments of \$800.00 due on or before the 15<sup>th</sup> day of each month commencing on June 15, 2011 and continuing until the entire sum is paid in full.

Respondent's failure to timely make any monthly installment payment shall be a violation of these terms. If Respondent fails to comply with the terms prescribed, the alternative disposition shall be the revocation of Respondent's license to practice law in the Commonwealth of Virginia.

It is further **ORDERED**, pursuant to the provisions of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia, that Respondent shall forthwith give notice, by certified mail, return receipt requested, of the suspension of her license to practice law in the Commonwealth of Virginia to all clients for whom she is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent shall also make appropriate arrangements for the disposition of matters then in her care, in conformity with the wishes of her clients. Respondent shall

give such notice within 14 days of the effective date of the license suspension, and make such arrangements as are required herein within 45 days of this effective date of the license suspension. Respondent shall furnish proof to the Bar within 60 days of the effective date of the license suspension that such notices have been timely given and such arrangements for the disposition of matters made. If Respondent is not handling any client matters on the effective date of the suspension, she shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. Issues concerning the adequacy of the notice and the arrangements required herein shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with these requirements.

Pursuant to Part Six, Section IV, Paragraph 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System of the Virginia State Bar shall assess costs.

It is further **ORDERED** that the Clerk of this Court shall send a copy *teste* of this order to Respondent, by certified mail, at Janaf Office Building Suite 208, 5900 East Virginia Beach Boulevard, Norfolk, VA 23502, her address of record with the Virginia State Bar; and send copies *teste* by regular mail to Assistant Bar Counsel M. Brent Saunders and Barbara Sayers Lanier, Clerk of the Disciplinary System, Virginia State Bar, Eighth and Main Building, Suite 1500, 707 East Main Street, Richmond, Virginia 23219.

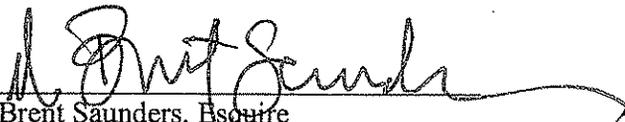
Tracy J. Stroh of Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227, was the court reporter for the hearing and transcribed the proceedings.

ENTERED this 17<sup>th</sup> day of May, 2011.

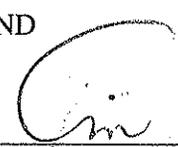
  
Marjorie T. Arrington  
Chief Judge

SEEN AND AGREED:

VIRGINIA STATE BAR

By:   
M. Brent Saunders, Esquire  
Assistant Bar Counsel

AND

   
Tina Elizabeth Orr

COPY TESTE:

GEORGE E. SCHAEFER, CLERK  
NORFOLK CIRCUIT COURT  
BY 

Janice O'Hern, Deputy Clerk

Authorized to sign on behalf  
of George E. Schaefer

Date: 5-19-11