

VIRGINIA:

Before the Virginia State Bar Disciplinary Board

In the Matter of

EDDY PAUL RICE, IV
Attorney at Law

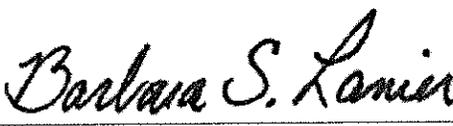
VSB Docket No. 14-033-099432

On September 15, 2015, came Eddy Paul Rice, IV, and presented to the Board an Affidavit Declaring Consent to Revocation of his license to practice law in the courts of this Commonwealth. By tendering his Consent to Revocation at a time when allegations of Misconduct are pending, the nature of which are specifically set forth in the attached certification, Respondent acknowledges that that the material facts upon which the allegations of Misconduct are pending are true.

The Board having considered the said Affidavit Declaring Consent to Revocation, and Bar Counsel having no objection, the Board accepts his Consent to Revocation. Accordingly, it is ordered that the license to practice law in the courts of this Commonwealth heretofore issued to the said Eddy Paul Rice, IV, be and the same hereby is revoked effective 6:00 p.m. on September 20, 2015, and that the name of the said Eddy Paul Rice, IV, be stricken from the Roll of Attorneys of this Commonwealth.

Entered this 21st day of September, 2015

For the Virginia State Bar Disciplinary Board

By 

Barbara Sayers Lanier, Clerk of the Disciplinary System

VIRGINIA:

BEFORE THE THIRD DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
EDDY PAUL RICE, IV

VS B Docket No. 14-033-099432

SUBCOMMITTEE DETERMINATION
(CERTIFICATION)

On November 18, 2014, and April 30, 2015, meetings in this matter were held before a duly convened Third District Subcommittee consisting of Russell M. Finer (lay member), Collin Jefferson Hite, and Yvonne Steenstra Gibney, Chair, presiding. Pursuant to Part 6, § IV, ¶ 13-15.B.3 of the Rules of the Supreme Court of Virginia, the Third District Subcommittee of the Virginia State Bar hereby serves upon Eddy Paul Rice, IV, (“Respondent”) the following Certification:

I. FINDINGS OF FACT

1. During all times relevant hereto, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In or about March 2012, Bruce Hartsell (“Complainant”) hired Respondent to help determine whether he owed unpaid child support for a teenaged child.
3. Complainant and Respondent agreed upon a fee of \$1,000 to be paid in installments. Complainant paid Respondent \$400 toward the \$1,000 fee around March 2012 but Respondent took no further action in the matter.
4. In December 2012, the Division of Child Support Enforcement (“DCSE”) noticed Complainant for a hearing in the Chesterfield County Juvenile and Domestic Relations District Court to take place in January 2013. Complainant tried to contact Respondent who did not respond after repeated attempts.
5. Unable to reach Respondent, Complainant appeared in court without counsel. The court appointed him an attorney, ordered a paternity test, and set a return date for several weeks later.
6. Complainant’s appointed counsel then represented Complainant through the conclusion of the matter in the Chesterfield court.

7. At the subsequent hearing, the Court determined that Complainant was the father of the teenaged child and ordered Complainant to pay child support and arrearages.
8. Complainant alleged that after the hearing he tried repeatedly to contact Respondent, sometimes through his secretary, to inquire about a refund or simply to obtain some service in return for his payment.
9. Unable to reach Respondent for two years after hiring him, Complainant notified the bar about this matter by letter, dated May 9, 2014.
10. Upon receipt of the bar complaint, Respondent issued Complainant a refund drawn on his attorney trust account, issued a letter of apology, and acknowledged his responsibility for failing to act in the matter and for failing to communicate with Complainant.
11. By letter to the bar, dated June 2, 2014, Respondent acknowledged that Complainant paid him \$400, that he failed to respond to Complainant's communications, that he failed to issue a refund, and that he was entirely at fault in this matter.
12. During the ensuing bar investigation, Respondent acknowledged not returning calls or emails from Complainant.
13. Respondent also, by the time of the bar investigation, expressed no recollection of Complainant or the case. He said that Complainant's file may have been lost with several other records when Respondent moved his office in June 2012. Respondent said he had no record of Complainant's \$400 payment but did not dispute that Complainant paid him \$400 to retain him for a custody case.
14. Respondent also explained that his trust account had been "fallow" for years and that he assumed that he had placed Complainant's \$400 fee into his operating account.
15. Respondent said that to issue Complainant's \$400 refund, he deposited personal funds into his attorney trust account.
16. Respondent indicated that since this complaint, he has begun using his trust account again and establishing registers for individual clients, that he has begun depositing client funds into his trust account until earned, and has begun accepting credit cards from his iPhone with payments going to his trust account.
17. The bar obtained Respondent's trust account bank statements, checks and deposit records for the period January 2012 through November 2014, account number XXXXXXXXXXXX- 6099 at Union First Market Bank, styled "EDDY PAUL RICE, DBA EDDY PAUL RICE ATTY AT LAW, ATTORNEY AT LAW ESCROW ACCOUNT, 1408 PARK AVE, RICHMOND, VA 23220-3536."

18. An audit of these records reflects that over a three-year period, Respondent deposited more than \$9,000 (nine thousand dollars) of personal funds into his attorney trust account. The personal funds were drawn from an account styled, "EDDY PAUL RICE IV, 1408 PARK AVE, RICHMOND, VA 23220-3536" Account Number XXXXXXXXXX-3181, at Union First Market Bank ("personal account"), a non-trust account.

19. The bank records reflect that, on five different occasions, Respondent issued trust account refund checks to clients immediately or shortly after depositing funds from his personal account into the trust account to cover those disbursements. Specifically:

- a. On August 16, 2012, Respondent deposited \$500 from his personal account into his trust account, creating a balance of \$542.67, just prior to issuing a \$300 refund to "Bonnie Bissette" on August 20, 2012.
- b. On December 26, 2013, Respondent deposited \$1,086 from his personal account into his attorney trust account, creating a balance of \$1,180.67, just prior to issuing a refund of \$1,086 to "Victoria Handschuh" on December 27, 2013.
- c. On May 27, 2014, Respondent deposited personal funds into his attorney trust account by checks from his personal account in the amount of \$300 and \$400, creating a balance of \$769.67, just prior to issuing the \$400 refund to Complainant Bruce Hartsell on May 28, 2014. On June 4, 2014, the account was debited \$250.86 for new checks, leaving a balance of \$118.81.
- d. On June 16, 2014, Respondent deposited \$2,500 from his personal account into the trust account, creating a balance of \$2,618.81, just prior to issuing a refund of \$2,500 to "Heather Henig" on June 17, 2014.
- e. On August 4, 2014, Respondent deposited \$530 from his personal account into his trust account, then deposited another \$110 from his personal account on August 13, 2014, and \$110 from his personal account again on August 21, 2014, against which he drew a \$300 refund to "David Harris" on August 5, 2014, and an aggregate of \$424 to various courts for fees and costs in different cases, leaving a balance of \$62.81.

20. Respondent's trust account bank records also reflect that, on multiple occasions, Respondent issued checks to courts, sheriff's offices, or others immediately or shortly after depositing personal funds into the trust account to cover the disbursements. Specifically:

- a. On February 15, 2012, Respondent deposited \$150 from his personal account into his trust account, creating a balance of \$189.67, and the same day issued a trust account check to "Clerk, Circuit Court" in the amount of \$96 with the reference, *Paddi v. Paddi*, leaving a balance of \$93.67.
- b. On March 2, 2012, Respondent deposited \$150 from his personal account into his trust account, creating a balance of \$243.67, and the same date issued a \$25 check

from his trust account to “Chesterfield J & DR District Court” with the reference, *Piper v. Piper*, and a \$110 check from his trust account to “Clerk, Circuit Court” with the reference, *Strove v. Strove*’r [sic] leaving a balance of \$108.67. On March 27, 2012, he issued a \$36 check to “Clerk, Prince George Combined Courts” (no reference) leaving a balance of \$72.67.

- c. On April 16, 2012, Respondent issued a \$25 trust account check to “Rebecca Cone, Clerk,” with the reference, *Wilkerson v. Anderson*. On April 18, 2012, Respondent deposited \$175 from his personal account into his trust account, and the same date issued a \$110 trust account check to “Clerk, Circuit Court,” with the reference, *Firestone v. Firestone*, and on April 23, 2012, issued a \$108 trust account check to “Clerk, Circuit Court” (no reference) leaving a balance of \$104.67.
- d. On May 8 and May 11, 2012, Respondent made two deposits of \$100 each from his personal account into his trust account, creating a balance of \$304.67. Earlier, on April 27, 2012, he made a trust account check in the amount of \$50, payable to “Chatham County Sheriff’s Department” with the reference, *Services for Hornsby*. On May 7, 2012, he made an \$84 trust account check to “Clerk, Circuit Court” with the reference, *Bissette v. Bissette*, and on May 11, 2012, also made an \$84 trust account check to “Clerk, Circuit Court” with the reference, *Morris v. Morris*, leaving a balance of \$86.67 after all of the checks cleared.
- e. On June 18, 2012, Respondent deposited \$50 from his personal account into his trust account, creating a balance of \$136.67, and on the same date, issued an \$86 trust account check to “Clerk, Circuit Court” with the reference, *Washington v. Washington*, leaving a balance of \$50.67. He followed these transactions with another deposit of funds from his personal account, \$160, on July 17, 2012, creating a balance of \$210.67. The day before, July 16, 2012, he made an \$84 trust account check to “Clerk, Circuit Court” with the reference, *Neubauer v. Neubauer*, and on July 19, another \$84 trust account check to “Clerk, Circuit Court, referencing *Wilkinson v. Wilkinson*, leaving a balance of \$42.67 after the two checks cleared.
- f. On August 16, 2012, Respondent deposited \$500 from his personal account into his trust account, creating a balance of \$542.67. In addition to the August 20, 2012, \$300 refund to Bonnie Bissette referenced above in paragraph 19.a, he also issued an \$86 check to “Clerk, Circuit Court” with the reference, *Webb v. Webb*, a \$12 check to “Clerk, Circuit Court” with the reference, *Starup* [sic] and a \$50 check to “Emerald Coast Protective Services” with the reference, *Neubauer*, leaving a balance of \$94.67 on August 31, 2012.
- g. From August 31, 2012, there was no activity in Respondent’s trust account until December 26, 2013, when he deposited \$1086 from his personal account into his attorney trust account from which he issued a refund in the same amount to “Victoria Handschuh” on December 27, 2013, as referenced above in paragraph 19.b.

- h. On July 11, 2014, Respondent deposited \$100 from his personal account into his attorney trust account for a balance of \$218.81. The same date, he also issued a trust account check in the amount of \$96 to “Ray S. Campbell, Jr., Clerk,” with the reference, *Expungement – Anderson*, and an \$86 check to “Clerk, Circuit Court” with the reference, *Greene v. Greene*, leaving a balance of \$36.81.
- i. As referenced above in paragraph 19.e, on August 4, 2014, Respondent deposited \$530 into his trust account, followed by \$110 on August 13, and \$110 again on August 21, 2014, all drawn from his personal account. In addition to the \$300 refund issued to Dave Harris referenced earlier in paragraph 19.e above, Respondent issued five checks in various amounts to courts referencing various cases, beginning with \$108 on August 4, 2014, to “Clerk, Circuit Court” with the reference *Goldschmidt v. Goldschmidt*; \$98 on August 13, 2014, to “Clerk, Circuit Court” with the reference, *Derwin Gibson v. Nicoric [sic]Gibson*, \$12 on August 13, 2014 to “Benatha B. Simmons, Clerk” with the reference, *Williams v. Williams*; \$98 on August 19, 2014 to “Clerk, Circuit Court” with the reference, *Butler v. Butler*; and \$108 on August 22, 2014 to “Clerk, Circuit Court with the reference, *John Joseph Burns*, leaving a balance of \$62.81.
- j. There was no account activity again until October 2014, when Respondent deposited \$2,500 from his personal account into his trust account.

21. Records from Respondent’s personal account at Union First Market Bank reflect 118 deposits of checks from various persons to Respondent with annotations indicating that they were for attorney’s fees, some of which indicated that they were for services yet to be performed, and others that they were deposits of fees from clients referenced above that were refunded or paid toward future court costs from Respondent’s trust account. For example:

- a. A check in the amount of \$800 from Charles W. Sullivan, dated January 27, 2012, was deposited into Respondent’s personal account on February 1, 2012, with the annotation, “Court 2-6-12 Amelia.”
- b. A check in the amount of \$500 from Tyrone Washington was deposited into Respondent’s personal account on January 20, 2012, five months before Respondent issued a check in the amount of \$86 from his trust account to the clerk of a circuit court on June 18, 2012 in the matter of *Washington v. Washington* referenced above in paragraph 20.e. (Court records reflect that on June 19, 2012, Respondent filed the case of *Tyrone P. Washington v. Renee E. Washington* in the Henrico County Circuit Court.)
- c. A check in the amount of \$1000, dated February 2, 2012, from Patricia Paddi with the reference “For Divorce” was deposited into Respondent’s personal account on February 7, 2012, eight days before Respondent deposited personal funds into his trust account and issued a trust account check in the amount of \$96 with the annotation *Paddi v. Paddi*, referenced above in paragraph 20.a.

- d. A check in the amount of \$1,086 from Victoria Handschuh, dated February 14, 2013, was deposited into Respondent's personal account on February 19, 2013, approximately 10 months before a deposit of \$1086 of Respondent's personal funds into his trust account on December 26, 2013, and the \$1,086 refund issued to Ms. Handschuh on December 27, 2013, from his trust account, referenced above in paragraph 19.b.
- e. A check in the amount of \$750 from Gabriela Gilbert, dated March 20, 2013, with the reference "April 17 Court," was deposited into Respondent's personal account on March 26, 2013.
- f. A check in the amount of \$750 from Charles L. Lawrence dated May 3, 2013, with the reference "Retainer for court date 7-10-13" was deposited into Respondent's personal account on May 10, 2013.
- g. A check in the amount of \$750 from Dawn Kozlowski, dated July 6, 2013, with the reference "Atty fee July 10" was deposited into Respondent's personal account on July 9, 2013.
- h. Three checks from Heather Henig in the amounts of \$1,000, \$1,000 and \$500 (an aggregate of \$2,500) were deposited into Respondent's personal account on October 24, 2013, November 5, 2013, and December 26, 2013, respectively, several months prior to Respondent's deposit of \$2,500 of personal funds into his attorney trust account and Respondent's issue of a refund of \$2,500 to Heather Henig on June 17, 2014, drawn on his attorney trust account, referenced above in paragraph 19.d.
- i. On December 31, 2013, a check from John J. Burns III in the amount of \$2,000 with the reference "For: Legal Representation" was deposited into Respondent's personal account, eight months before Respondent made a deposit of personal funds to his trust account and issued a \$108 check to a circuit court clerk on August 22, 2014, with the reference, *John Joseph Burns*, referenced above in paragraph 20.i. (Court records reflect that on August 25, 2014, John Joseph Burns filed a petition for restoration of driving privileges with the Circuit Court for the City of Petersburg.)
- j. A check in the amount of \$600 from Melinda T. Greene, dated May 5, 2014, was deposited into Respondent's personal account on May 7, 2014, two months before July 11, 2014, when Respondent, as referenced above in paragraph 20.h, deposited \$100 in funds from his personal account to the trust account and issued an \$86 check from his trust account to the clerk of a circuit court in the matter of *Greene v Greene*. (Henrico Circuit Court records reflect that Respondent filed the case of *Melinda Louise Teboul Greene v. William Preston Greene* on July 14, 2014.)
- k. A check in the amount of \$1,110 from Marie J. Goldschmidt, dated July 21, 2014, was deposited into Respondent's personal account on July 23, 2014, two weeks before Respondent deposited personal funds into his trust account and issued a \$98 trust account check to a circuit court clerk on August 4, 2014, in the matter of

Goldschmidt v. Goldschmidt, referenced above in paragraph 20.i. (Court records reflect that on August 6, 2014, Respondent filed the case of *Marie Johnson Goldschmidt v. David Wayne Goldschmidt* in the Chesterfield 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:

In failing to take any action on behalf of Complainant or respond to his inquiries after receiving partial payment for his services; thereby causing Complainant to appear in court on the same matter without counsel; prompting the court to appoint him counsel; and in continuing to fail to respond to Complainant's inquiries over a two-year period; Respondent violated the following 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.

In failing to deposit Complainant's advance partial payment into his attorney trust account and failing to timely issue a refund after taking no action on his behalf; in failing to deposit multiple other advance client payments into his attorney trust account and depositing them instead into a personal, non-trust account; in depositing personal funds into his attorney trust account to enable him to pay court costs or issue refunds to clients drawn on his attorney trust account, as though he had held their funds in his attorney trust account all along when he had not, having instead deposited those funds into a personal account and covered the refunds and costs with deposits of personal funds into his trust account; and in failing to maintain appropriate records to account for his use of client funds he received, Respondent violated the following 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; 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.

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

(b) Specific Duties. A lawyer shall:

(2) identify and label securities and properties of a client, or those held by a lawyer as a fiduciary, promptly upon receipt;

(3) 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;

(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 that such person is entitled to receive; and

(5) not disburse funds or use property of a client or third party without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

(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.

(3) In the case of funds or property held by a lawyer as a fiduciary, the required books and records shall include an annual summary of all receipts and disbursements and changes in assets comparable in detail to an accounting that would be required of a court supervised fiduciary in the same or similar capacity; including all source documents sufficient to substantiate the annual summary.

(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.

In failing to timely issue a refund to Complainant after taking no action on his behalf, until Complainant notified the bar two years later, Respondent violated the following Rule of Professional Conduct:

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).

In depositing personal funds into his attorney trust account to enable him to pay court costs or issue refunds to clients drawn on his attorney trust account, as though he had held their funds in his attorney trust account all along when he had not, having instead deposited those funds into a personal account and covered the refunds and costs with deposits of personal funds into his trust account, in addition to the Rules cited above Respondent violated the following Rule of Professional Conduct:

RULE 8.4 Misconduct

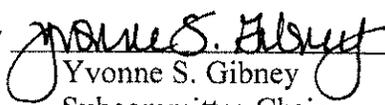
It is professional misconduct for a lawyer to:

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

III. CERTIFICATION

Accordingly, it is the decision of the Subcommittee to certify the above matters to the Virginia State Bar Disciplinary Board.

THIRD DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By  _____
Yvonne S. Gibney
Subcommittee Chair

CERTIFICATE OF SERVICE

I certify that on June 16, 2015, I mailed by certified mail a true and correct copy of the foregoing Subcommittee Determination (Certification) to Eddy Paul Rice, IV, Esquire, Respondent, at 1408 Park Avenue, Richmond, VA 23220, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid, to Craig S. Cooley, counsel for Respondent, at 3000 Idlewood Avenue, Post Office Box 7268, Richmond, Virginia 23221-0268, his address of record with the Virginia State Bar.



Edward L. Davis
Bar Counsel