

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
WILLIAM VAUGHAN RIGGENBACH**

**VSB DOCKET NOS. 13-060-093426,  
13-060-093662, 13-060-094483,  
13-060-094639, 13-060-094941,  
13-060-094986, 14-060-096336**

**AGREED DISPOSITION MEMORANDUM ORDER**

On September 23, 2014, this matter was heard by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by the Rules of the Supreme Court of Virginia. The panel consisted of Esther J. Windmueller, Acting Chair, Michael A. Beverly, Glenn M. Hodge, Tony H. Pham, and Stephen A. Wannall, Lay Member. The Virginia State Bar was represented by Kathryn R. Montgomery, Deputy Bar Counsel. William Vaughan Rikkenbach was present and was represented by counsel, Leslie Ann Takacs Haley. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter Jennifer Hairfield, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, the Certification, Respondent's Disciplinary Record and any responsive pleadings of counsel,

It is **ORDERED** that the Board accepts the Agreed Disposition and the Respondent shall receive a Five Month Suspension with Terms as set forth in the Agreed Disposition, which is attached to this Memorandum Order.

It is further **ORDERED** as part of this Agreed Disposition, VSB Docket Nos. 13-060-093426 and 13-060-094483 are dismissed.

It is further **ORDERED** that the sanction is effective on September 23, 2014. It is further **ORDERED** that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of William Vaughan Rikkenbach's license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of suspension, William Vaughan Rikkenbach shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the

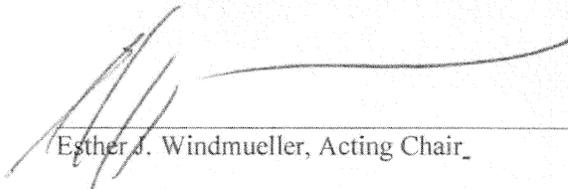
adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for a hearing before a three-judge court.

The Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9 E. of the Rules.

A copy teste of this Order shall be mailed by Certified Mail to the Respondent, William Vaughan Riggenbach, at his last address of record with the Virginia State Bar, PO Box 6052, Ashland, VA 23005, with a copy to Respondent's Counsel, Leslie Ann Takacs Haley, Esq., Haley Law PLC, PO Box 943, Midlothian, VA 23113 and hand-delivered to Kathryn R. Montgomery, Deputy Bar Counsel in this matter, at the Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-3565.

ENTERED THIS 23<sup>d</sup> DAY OF Sept, 2014

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
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Esther J. Windmueller, Acting Chair

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR

RECEIVED

IN THE MATTERS OF WILLIAM VAUGHAN RIGGENBACH

SEP 15 2014

VSB Docket Number 13-060-093426  
Complainant: Pamela Jean Martin

VSB Docket Number 13-060-093662  
Complainant: Christopher Collins, Esq.

VSB Docket Number 13-060-094483  
Complainant: Damien Di Domenico

VSB Docket Number 13-060-094639  
Complainant: Lou Rubsam

VSB Docket Number 13-060-094941  
Complainant: Carl Weston

VSB Docket Number 13-060-094986  
Complainant: Dorothy Burak

VSB Docket Number 14-060-096336  
Complainant: Charlotte Jones

VSB CLERK'S OFFICE

AGREED DISPOSITION  
(FIVE MONTH SUSPENSION WITH TERMS)

Pursuant to Part Six, section IV, Paragraph 13-6.H. of the Rules of the Supreme Court of Virginia, the Virginia State Bar, by counsel, and the respondent, William Vaughan Riggenbach, ("Respondent") and his counsel, Leslie A.T. Haley, Esquire, hereby enter into the following Agreed Disposition for a Five Month Suspension with Terms.

## I. STIPULATIONS OF FACT

### Stipulations Related to All Cases

1. Respondent was licensed to practice law in Virginia on April 19, 1989, and had no issues with the Virginia State Bar over the course of twenty-five (25) years of practice until his association with Robert Smallenberg in May, 2012.
2. These matters arise out of Respondent's affiliation with Robert Smallenberg, a former Virginia lawyer who consented to revocation in November 2012, and Steven Kelsey, a nonlawyer who worked with Robert Smallenberg for many years. Respondent began working with Mr. Smallenberg and Mr. Kelsey on or about May 29, 2012, when the firm was called Metropolitan Law Center, LLP ("MLC").
3. Robert Smallenberg's license to practice law was suspended on May 18, 2012 for three years. Following imposition of the suspension, Mr. Smallenberg petitioned the Supreme Court of Virginia for a stay of the suspension, but the stay was denied on May 24, 2012. Mr. Smallenberg did not perfect an appeal of his suspension to the Supreme Court of Virginia.
4. Robert Smallenberg reported to the Virginia State Bar that he was the sole member, director, and officer of MLC.
5. Steven Kelsey was the office manager for MLC. Mr. Kelsey's business card gave his title as "Corporate Consultant." Mr. Kelsey also performed work on legal matters and his time was billed to clients.
6. When Respondent began working for MLC on or about May 29, 2012, he knew that Mr. Smallenberg's license to practice law had been suspended. Respondent also knew that no other lawyers licensed and in good standing with the Virginia State Bar worked for MLC. Respondent states that to the best of his belief and understanding as told to him by Mr. Smallenberg, Mr. Smallenberg's suspension had been stayed by the Supreme Court of Virginia, and was under this erroneous belief until October 2012.
7. During the entire time Respondent was affiliated with Mr. Smallenberg and Mr. Kelsey, from May 2012 to January 2013, Respondent was the only lawyer at the law firm who was licensed and in good standing with the Virginia State Bar.
8. According to Respondent, when he began working for MLC in late May 2012, he was a 1099 employee/independent contractor of MLC. From the time Respondent was hired in May 2012 to mid-October 2012, Respondent assumed no management authority over staff at MLC, including Mr. Smallenberg and Mr. Kelsey. Moreover, Respondent assumed no authority or responsibility for managing the firm's bank accounts, including the trust account.
9. Although Respondent submits he did not know it at the time, Respondent now admits that his affiliation with MLC allowed Mr. Smallenberg to keep MLC operating as a law firm even though Mr. Smallenberg's law license was suspended.

10. Despite his three-year suspension, Mr. Smallenberg, along with Mr. Kelsey, continued to manage the operating and trust accounts of MLC.
11. In mid-October 2012, Respondent was contacted by a bar investigator about Mr. Smallenberg. It was at this meeting that Respondent first learned that the three-year suspension of Mr. Smallenberg's law license had not been stayed and that in fact Mr. Smallenberg's law license had been suspended the entire time Respondent had been working at MLC. Following this meeting, Respondent contacted the Virginia State Bar Ethics Hotline and inquired about the ethics of Mr. Smallenberg acting as a paralegal at MLC or at any other law firm, including any newly formed law firm, while his license was suspended.
12. Based on the advice Respondent received from the Ethics Hotline on October 9, 2012, Respondent formed Commonwealth Law Center, PLC ("CLC"). Respondent was the sole member of CLC.
13. On or about October 10, 2012, Respondent opened bank accounts for CLC's trust account and operating account. Initially, Respondent and Mr. Kelsey were authorized signatories on the accounts. On or about November 28, 2012, Respondent added Mr. Smallenberg as an additional authorized signatory on the account. At that time Respondent had no information that either Mr. Kelsey or Mr. Smallenberg, through MLC, had misappropriated any client funds.
14. Respondent and CLC continued to represent MLC's clients for whom Respondent had personally done legal work. All of MLC's employees continued with CLC. CLC occupied the same office space that MLC occupied.
15. Mr. Kelsey worked for CLC. Mr. Smallenberg worked for CLC as a paralegal. Both continued to do work for MLC as Respondent attempted to finish the MLC client matters and handle new clients through CLC.
16. Respondent believed he had an ethical duty to diligently handle ongoing client matters of MLC once he learned that he was the only remaining licensed lawyer. Respondent also understood that he had a duty to ensure that Mr. Smallenberg did not engage in the unauthorized practice of law or violate Rule 5.5 by providing any advice through MLC or CLC to former clients of MLC. Respondent counseled both Mr. Smallenberg and Mr. Kelsey about these matters and believed they understood and were compliant as they were handling new client matters at CLC in a paralegal/legal assistant role.
17. Respondent believes Mr. Smallenberg and Mr. Kelsey accessed CLC's bank accounts, including the trust account.
18. After the formation of CLC and the opening of CLC bank accounts, the MLC trust account and operating accounts continued to be active and managed by Mr. Smallenberg and Mr. Kelsey.

19. On or about November 14, 2012, Mr. Smallenberg's license to practice law was revoked by the Virginia State Bar Disciplinary Board based on Mr. Smallenberg's affidavit consenting to revocation.
20. In late November and early December 2012, Respondent began to have serious misgivings about his affiliation with Mr. Smallenberg and Mr. Kelsey. In mid-December 2012, Respondent advised Mr. Smallenberg and Mr. Kelsey that he was leaving the firm. In response, Mr. Kelsey asked Respondent to give him some time to find a new lawyer for the firm.
21. As of January 1, 2013, there was \$757.94 in the trust account of CLC and \$128.73 in the CLC operating account.
22. As of January 1, 2013, there was \$199.85 in the trust account of MLC and a negative balance of \$159.25 in the MLC operating account.
23. On or about January 15, 2013 Respondent removed Mr. Kelsey and Mr. Smallenberg as authorized signatories on the CLC operating and trust accounts. Respondent, on or about that day, paid the two administrative assistants for CLC their last paychecks and physically removed all MLC and CLC files that he could locate from the physical office address that was leased to MLC and Smallenberg.
24. In January 2013, Respondent visited the VSB offices seeking ethics advice. On or about January 23, 2013, Respondent met with ethics counsel for advice.
25. Respondent subsequently dissolved CLC and began practicing as VA Law Center. Respondent continued to represent several MLC and CLC clients, mostly on a pro bono basis, in an attempt to help them finalize their legal issues or find new representation.
26. As the sole member of CLC, and as the only lawyer at CLC who was licensed and in good standing with the Virginia State Bar, Respondent had a duty to supervise Mr. Smallenberg and Mr. Kelsey and to make reasonable efforts to insure that their conduct was compatible with the Rules of Professional Conduct and the professional obligations of the lawyer in accordance with Rule 5.1 (a) and (b) and Rule 5.3 (a) and (b).
27. Respondent failed to supervise Mr. Kelsey and Mr. Smallenberg and failed to make reasonable efforts to insure that their conduct was compatible with the Rules of Professional Conduct and the professional obligations of the lawyer in accordance with Rule 5.1 (a) and (b) and Rule 5.3 (a) and (b).
28. As the sole member of CLC, and as the only lawyer at CLC who was licensed and in good standing with the Virginia State Bar, Respondent had a duty to supervise all legal work performed for clients of the firm in accordance with Rule 1.1, Rule 1.3(a), Rule 5.1 (a), (b), and (c) and Rule 5.3 (a), (b), and (c).
29. Respondent failed to supervise all legal work performed for clients of CLC in accordance with Rule 1.1, Rule 1.3(a), Rule 5.1 (a), (b), and (c) and Rule 5.3 (a), (b), and (c).

30. As the sole member of CLC, and as the only lawyer at CLC who was licensed and in good standing with the Virginia State Bar, Respondent had a duty to ensure that the trust account of CLC was in compliance with the Virginia Rules of Professional Conduct in accordance with Rule 1.15.
31. Respondent failed to ensure that the trust account of CLC was in compliance with the Virginia Rules of Professional Conduct in violation of Rules 1.15. Respondent did not properly manage the trust account, did not ensure that all client funds were deposited into the trust account, did not keep adequate records, did not reconcile the trust account, and did not adequately safeguard client funds.
32. As the sole member of CLC, and as the only lawyer at CLC who was licensed and in good standing with the Virginia State Bar, Respondent had a duty to safeguard client funds and ensure that client funds were not converted, in accordance with Rule 1.15.
33. Respondent failed to safeguard client funds and failed to ensure that client funds were not converted, in violation of Rule 1.15 (b)(5).
34. As the sole member of CLC, and as the only lawyer at CLC who was licensed and in good standing with the Virginia State Bar, Respondent had a duty to ensure that CLC promptly refunded unearned fees in accordance with Rule 1.16(d).
35. Respondent failed to ensure that CLC promptly refunded unearned fees in violation with Rule 1.16(d).

Christopher Collins Complaint (Christmas Scott, Derrick Engram)  
VSB Docket No. 13-060-093662

36. Complainant is Christopher Collins, Esquire, who took over the representation of Derrick Engram, who was charged with murder, after Respondent and his firm, CLC, represented Derrick Engram for a brief period.
37. Christmas Scott is Mr. Engram's mother. On October 11, 2012, Ms. Scott contacted CLC about representing Mr. Engram on the murder charge. Later that day, Mr. Kelsey visited Ms. Scott's home. Ms. Scott later told the bar that she and her family believed Mr. Kelsey was a lawyer because he represented himself as a lawyer. That day Ms. Scott retained CLC to represent Derrick Engram paid Mr. Kelsey an advanced legal fee of \$6026, which was deposited into the CLC trust account.
38. Later in the day on October 11, 2012, Mr. Kelsey returned to Ms. Scott's home with Respondent and Mr. Smallenberg. During this meeting, Respondent allowed Mr. Kelsey to take the lead and do most of the talking.
39. As the sole member of CLC, Respondent had direct supervisory authority over Mr. Kelsey. Respondent failed to make reasonable steps to ensure that Mr. Kelsey's conduct was compatible with Respondent's professional responsibilities. Respondent knew or should have known that Mr. Kelsey's conduct and representations would reasonably lead

a lay person to believe that Mr. Kelsey was a lawyer. Respondent's conduct violated Rule 5.3(a), (b), and (c).

Lou Rubsam Complaint  
VSB Docket Number 13-060-094639

40. Mr. Rubsam went to CLC on November 1, 2012 and met with Mr. Smallenberg in an effort to save his house from foreclosure and to file bankruptcy.
41. Mr. Rubsam hired CLC and paid Mr. Smallenberg \$650 by check dated November 1, 2012. This check was deposited into the CLC trust account. Mr. Rubsam subsequently paid Mr. Smallenberg \$926 by check dated November 7, 2012, which was also deposited into the CLC trust account.
42. By November 30, 2012, the balance of the CLC trust account was \$647.59. During the month of November 2012, there were several transfers of funds from the CLC trust account to the CLC operating account.
43. No work was performed on Mr. Rubsam's case and the foreclosure sale went forward, although without bidders. Mr. Rubsam paid Mr. Smallenberg \$1705 by debit card on December 17, 2012. These funds were deposited into the MLC trust account.
44. Respondent advised the bar that he had no knowledge that Mr. Rubsam had hired CLC for legal representation until after Respondent had ended his affiliation with Mr. Kelsey and Mr. Smallenberg. Moreover, Respondent cannot account for Mr. Rubsam's funds deposited into the CLC trust account. Respondent has performed no legal work for Mr. Rubsam and has refunded no monies to Mr. Rubsam.
45. As the only licensed attorney in the office and as the sole member of CLC, Respondent is responsible for the Mr. Rubsam's loss of funds paid for legal representation. Respondent violated Rule 1.15(b)(5). Respondent also violated Rule 1.16(d), as he was responsible to refund unearned fees paid to CLC and did not do so.
46. As the only licensed attorney in the office and as the sole member of CLC, Respondent's lack of awareness that Mr. Rubsam was a client of the firm constitutes incompetence (Rule 1.1) and unethical neglect (Rule 1.3(a)).
47. As the sole member of CLC, Respondent had direct supervisory authority over Mr. Smallenberg. Respondent failed to make reasonable steps to ensure that Mr. Smallenberg's conduct was compatible with Respondent's professional responsibilities. Respondent knew or should have known that Mr. Smallenberg was committing misconduct when the consequences could have been avoided or mitigated, and Respondent failed to take reasonable remedial action. Respondent's conduct violated Rule 5.1(a), (b), and (c), and Rule 5.3 (a), (b), and (c).

Carl Weston Complaint  
VSB Docket No. 13-060-094941

48. Prior to Respondent's employment with MLC, Mr. Weston hired MLC to bring suit and/or criminal charges against his former spouse and bookkeeper for conversion. Mr. Weston worked with Mr. Smallenberg, and in February 2012, paid MLC \$5,000.
49. In August 2012, Mr. Weston met with Respondent and signed a retainer agreement. On August 17, 2012, Mr. Weston paid another \$5,000 to MLC, which was deposited into the MLC trust account.
50. From July 2012 to January 2013, Respondent performed a significant amount of work for Mr. Weston, including but not limited to meeting with the Commonwealth's Attorney in July 2012, meeting with Mr. Weston about a civil conversion suit, filing suit papers in September 2012, and propounding and answering discovery. Mr. Smallenberg also continued to work on Mr. Weston's legal matters.
51. A pre-bill issued on or about November 25, 2012 confirms payment of \$10,000 from Mr. Weston, with \$1459 in unearned fees remaining in trust. Despite this pre-bill, as of November 26, 2012, the MLC trust account had a balance of \$342.30 and the CLC trust account had a balance of \$987.07. Such discrepancy is a violation of Rule 1.15(b)(5), or in alternative, a violation of the record keeping requirements of Rule 1.15.
52. On or about February 28, 2013, Respondent sent Mr. Weston a letter advising of his departure from MLC/CLC.
53. Respondent has not provided Mr. Weston with a refund.
54. Following the creation of CLC, Respondent continued to represent Mr. Weston and employed Mr. Smallenberg to assist him when Mr. Weston had been Mr. Smallenberg's client prior to Mr. Smallenberg's suspension and revocation in violation of Rule 5.5(b).

Dorothy Burak Complaint  
VSB Docket No. 13-060-094986

55. On or about August 24, 2012, Dorothy Burak went to MLC to obtain representation for debt reduction or bankruptcy. She met with Mr. Kelsey. Ms. Burak told the bar investigator that Respondent was present at this meeting, but Respondent denies he attended the meeting. During the meeting, Mr. Kelsey suggested a "debt reorganization" scheme, whereby the firm would max out her credit cards, hold the funds in its trust account, and negotiate the debt with her creditors for a fee of \$2,000. Ms. Burak agreed to retain MLC.
56. On or about August 27, 2012, Mr. Kelsey charged Ms. Burak's credit cards \$23,300. On August 27, 2012, \$23,300 was deposited into MLC trust account; the previous balance was \$6445.67. By October 31, 2012, the balance of the MLC trust account was \$652.75. In between there were several transfers of funds from the MLC trust account to the MLC operating account, including five transfers of \$5000, two transfers of \$4,000, one transfer of \$7,000, and one transfer of \$3,000. Checks from the MLC operating account from August 2012 to October 2012 show a \$5000 payable to Frank Kelsey, who is Steven

Kelsey's brother, and several \$1000 checks payable to Mr. Smallenberg and Steven Kelsey.

57. There is no evidence that any legal work was performed by anyone at MLC or CLC on Ms. Burak's behalf.
58. On November 16, 2012, Ms. Burak met with Mr. Smallenberg, who said Respondent was handling the case. At the time of this meeting, Mr. Smallenberg was working as a paralegal for CLC.
59. Respondent told the bar he had nothing to do with Ms. Burak's matter and assumed no responsibility for the representation.
60. Hearing nothing from the firm, in February or March 2013, Ms. Burak visited the law office of MLC/CLC and found it closed. Ms. Burak then filed a bar complaint with the Virginia State Bar.
61. Respondent did not advise Ms. Burak that he was leaving the firm. Respondent did not perform any legal work for Ms. Burak. Respondent did not refund unearned fees to Ms. Burak.
62. Respondent failed to supervise Mr. Smallenberg, who was working as a paralegal for CLC when he met with Ms. Burak in November 2012, in violation of Rule 5.3(a), (b), and (c).

Charlotte Jones Complaint  
VSB Docket No. 14-060-096336

63. In 2011, Charlotte Jones hired MLC for legal assistance in her role as executrix of her father-in-law's estate. Ms. Jones paid MLC \$5000 initially, and later paid additional sums. Ms. Jones was represented by MLC. Respondent represented Ms. Jones as an attorney employee of MLC. It is Respondent's position that Ms. Jones never became a client of CLC.
64. After Respondent joined MLC, Respondent filed a motion for default judgment on her behalf. Respondent appeared at a September 5, 2012 hearing on the motion.
65. By letter dated September 12, 2012, the Commissioner of Accounts asked Respondent to give him an update on the status of the estate. Respondent did not respond to this letter. On December 4, 2012, the Commissioner of Accounts issued a summons to Ms. Jones demanding that the settlement of the account be filed in his office within thirty days. Respondent was copied on this letter, but took no action on behalf of Ms. Jones.
66. It is Respondent's position that he did not represent Ms. Jones with regard to administration of the estate. Respondent asserts that Mr. Smallenberg and/or MLC was responsible for the administration of the estate. In early 2013, Respondent informed Ms. Jones that he was severing his affiliation with Mr. Smallenberg and MLC.

67. Given Respondent's submission that he learned in mid-October 2012 that the suspension of Mr. Smallenberg's license had never been lifted, Respondent's failure to take any action to protect Ms. Jones's interests in light of the September 2012 letter and the December 2012 summons from the Commissioner of Accounts constitutes violations of Rules 1.3(a) and Rule 1.16(d).

## II. NATURE OF MISCONDUCT

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

### RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

### RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

### 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) 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.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(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.

#### 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 5.1 Responsibilities Of Partners And Supervisory Lawyers

(a) A partner in a law firm, or a lawyer who individually or together with other lawyers possesses managerial authority, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner or a lawyer who individually or together with other lawyers possesses managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows or should have known of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

RULE 5.5 Unauthorized Practice Of Law; Multijurisdictional Practice of Law

(a) A lawyer, law firm or professional corporation shall not employ in any capacity a lawyer whose license has been suspended or revoked for professional misconduct, during such period of suspension or revocation, if the disciplined lawyer was associated with such lawyer, law firm, or professional corporation at any time on or after the date of the acts which resulted in suspension or revocation.

(b) A lawyer, law firm or professional corporation employing a lawyer as a consultant, law clerk, or legal assistant when that lawyer's license is suspended or revoked for professional misconduct shall not represent any client represented by the disciplined lawyer or by any lawyer with whom the disciplined lawyer practiced on or after the date of the acts which resulted in suspension or revocation.

III. PROPOSED DISPOSITION

Accordingly, Deputy Bar Counsel and the Respondent tender to the Disciplinary Board for its approval the agreed disposition of (Five Month Suspension with Terms) as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. The terms with which Respondent must comply are as follows:

1. By February 2, 2015, Respondent shall repay to complainant Lou Rubsam \$1,576.00, which is the total paid by Mr. Rubsam to CLC and deposited into the CLC trust account, those amounts having been paid on November 1, 2012 (\$650) and November 7, 2012 (\$926).

As part of this agreed disposition, all charges not stipulated to herein would be dismissed, and the bar complaints filed by Pamela Martin (VSB 13-060-093426) and Damien Di Domenico (VSB 13-060-094483) would be dismissed. Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, all the terms and conditions are not met by the deadlines imposed above, the Respondent agrees that the Disciplinary Board shall impose a (Three Year Suspension) pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee.

THE VIRGINIA STATE BAR

By: Kathryn R. Montgomery  
Kathryn R. Montgomery  
Deputy Bar Counsel

WILLIAM VAUGHAN RIGGENBACH  
William Vaughan Riegenbach  
William Vaughan Riegenbach  
Respondent

Leslie A.T. Haley  
Leslie A.T. Haley, Esquire