

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
PETER CAMPBELL SACKETT

Respondent

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VSB DOCKET NO.: 09-090-079941

MEMORANDUM
ORDER

THIS MATTER came on to be heard on February 19, 2010 before a panel of the Virginia State Bar Disciplinary Board consisting of William H. Monroe, Jr., Chair, Richard J. Colten, J. Casey Forrester, Randall G. Johnson, Jr., and Jody D. Katz, lay member. The Virginia State Bar was represented by Renu Mago Brennan, Assistant Bar Counsel. The Respondent, Peter Campbell Sackett, failed to appear even though all required notices of the date and place were timely sent by the Clerk of the Disciplinary System in the manner prescribed by law, and the Clerk called for Mr. Sackett three times before the hearing began. The court reporter for the proceeding, Teresa L. McLean of Chandler & Halasz, Post Office Box 9349, Richmond, Virginia 23227, telephone: (804) 730-1222, was duly sworn by the Chair.

The Chair polled the members of the Board as to whether any of them had any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, and each member responded that there were no such conflicts.

This matter came before the Board on the Subcommittee Determination for Certification by a Subcommittee of the Ninth District of the Virginia State Bar.

I. FINDINGS OF FACT

The exhibits of the Virginia State Bar were admitted without objection, except that the Bar withdrew Exhibit 21. The Board makes the following findings of fact on the basis of clear and convincing evidence:

1. In March 2007, Complainant Jack David Bogan, a Wyoming resident, requested Respondent Peter Campbell Sackett ("Respondent") represent him and his wife in the sale of their real property in Campbell County, Virginia to their former neighbor, Randolph Brumfield. The Bogans sought to have Respondent obtain a survey of the property to be sold, prepare the necessary deeds and an amortization schedule, and to handle any other settlement issues necessary for and arising from the sale of the real property. Respondent agreed to represent the Bogans as requested.

2. In June 2007, Mrs. Bogan was diagnosed with cancer. At or about the time Mr. Bogan learned of the diagnosis, he requested Respondent notify him of the closing costs for the sale so that Mr. Bogan could pay the same to Respondent before the Bogans' health care costs started to mount.

3. On June 25, 2007, the Bogans paid Respondent the sum of One Thousand Eight Hundred Forty-four and 66/100 Dollars (\$1,844.66) for closing costs, via check no. 1781 drawn on their account at Big Horn Federal.

4. The draft HUD-1 Uniform Settlement Statement dated July 6, 2007, presumably prepared by Respondent, contains a signature line for Peter C. Sackett, Esq., Settlement Agent, and is signed only by the Bogans. This HUD-1 Uniform Settlement Statement reflects that of the \$1,844.66 closing costs, \$1,150.00 was for fees or costs to Respondent as follows:

Settlement or closing fee to Peter C. Sackett, P.C.	\$300.00
Abstract or title search to Peter C. Sackett, P.C.	\$150.00
Document preparation to Peter C. Sackett, P.C.	\$500.00
Attorney's fees to Peter C. Sackett, P.C.	\$150.00
Phone, fax, copies, postage, FedEx to Peter C. Sackett, P.C.	\$ 50.00

5. It appears Respondent negotiated the Bogans' check for closing costs in the amount of \$1,844.66 on June 29, 2007. Big Horn Federal processed the check on July 2, 2007. It is unclear whether Respondent deposited all or any portion of the \$1,844.66 in his escrow or trust account.

6. From June to November 2007, Mr. Bogan did not receive any communications from Respondent regarding the status of the transaction.

7. On November 29, 2007, Respondent sent the Bogans an additional invoice for services rendered. His November 29, 2007 letter reflects additional fees were incurred because the surveyor made a mistake on the plat.

8. On January 8, 2008, the Bogans paid Respondent the sum of \$577.00 for Respondent's November 29, 2007 invoice, via check no. 1075 drawn on their account at Bank Bridger.

9. On January 15, 2008, it appears Respondent negotiated the Bogans' check for the invoice of November 29, 2007. It is unclear whether Respondent deposited all or any portion of the \$577.00 in his escrow or trust account.

10. It appears Respondent prepared a Deed of Trust dated March 4, 2008 by and between the Bogans and Randolph Brumfield.

11. From June 2007 to June 2008, other than the HUD-1 Statement, the invoice, and the Deed of Trust referenced above, Respondent did not communicate with the Bogans regarding the status of the preparation and recordation of deed. During this time, Mr. Bogan was consumed with taking care of his wife so he did not follow up with Respondent, although he was curious as to why a seemingly simple transaction was taking so long.

12. In June 2008, Mr. Bogan requested a meeting with Respondent to discuss the status of the transaction. The two met, and Respondent advised Mr. Bogan the property had been surveyed. Respondent further stated that he would complete the transaction as soon as possible.

13. On June 2, 2008, Respondent provided the Bogans with an amortization schedule and copies of closing documents and advised Mr. Bogan that Mr. Brumfield had paid his share of the closing costs.

14. Respondent did not initiate contact with Mr. Bogan after June 2008. After Mr. Bogan's wife passed away in September 2008, Mr. Bogan called Respondent to inquire about the status of the transaction. Respondent advised Mr. Bogan that his

license had been suspended, and he did not know when he would resume work on the transaction.

15. On December 9, 2008, Respondent sent Mr. Bogan a revised deed which he requested Mr. Bogan sign before a notary public.

16. On December 19, 2008, Mr. Bogan signed the deed before a notary public. Mr. Bogan then returned the signed deed to Respondent.

17. After he returned the deed to Respondent, Mr. Bogan tried in vain to contact Respondent.

18. In May 2009, Mr. Bogan finally reached Respondent. Respondent advised Mr. Bogan that additional survey work was required, which would soon be completed.

19. In June 2009, Respondent advised Mr. Bogan that the land sale was out of Respondent's hands and in the county's hands.

20. After June 2009, Mr. Bogan could not reach Respondent.

21. As Mr. Bogan is in Wyoming, after June 2009, Mr. Bogan requested Mr. Brumfield follow-up with Respondent. Despite Mr. Brumfield's attempts, he was unable to reach Respondent.

22. Mr. Brumfield attempted to verify with the Campbell County Clerk's Office that the land sale had been recorded. Mr. Brumfield's search revealed that no deed had been recorded with the Campbell County Clerk's Office.

23. Respondent never completed the land transaction for which he was hired. On at least one occasion, when Mr. Bogan became frustrated at the lack of progress and

communication, Mr. Bogan asked Respondent to return the fees Mr. Bogan had paid Respondent. Respondent never returned any portion of the fees paid to Mr. Bogan. After filing this complaint with the Virginia State Bar in June 2009, Mr. Bogan tried to contact Respondent to obtain reimbursement. Mr. Bogan could not reach Respondent.

24. In June 2009, Mr. Bogan submitted a complaint about this matter to the Virginia State Bar. In July 2009, in connection with the investigation of the complaint, the Bar subpoenaed Respondent's file and trust account records relating to Respondent's representation of Mr. Bogan. Respondent did not produce the records to the Bar. Accordingly, in August 2009, the Bar requested Respondent produce the records by September 3, 2009. Respondent did not produce the records to the Bar on or by September 3, 2009. On or about September 3, 2009, the Bar's investigator attempted to interview Respondent regarding Mr. Bogan's complaint. Respondent advised the investigator that the file was then being copied for production to the Bar, and he requested the investigator interview him at a later date so that he could refer to the file, if necessary. The investigator and Respondent agreed to discuss the matter at 2:00 p.m. on September 8, 2009; however, Respondent was then unavailable at the scheduled time. While Respondent requested the investigator contact him on September 9, 2009, Respondent did not answer the investigator's calls on that date, nor did Respondent respond to investigator's letter mailed September 11, 2009, or to subsequent telephone calls through September 16, 2009. Moreover, despite the Bar's continued requests,

including a Notice of Noncompliance, Respondent never produced his file or trust account records to the Bar.

II. MISCONDUCT

The certification charged violations of the following provisions of the Virginia Rules of Professional Conduct:

1.3 Diligence

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

(b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

1.4 Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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 ...

(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.

(c) A lawyer shall:

(1) promptly notify a client of the receipt of the client's funds, securities, or other properties;

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

(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.

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).

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:

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

(d) obstruct a lawful investigation by an admissions or disciplinary authority.

8.4 Misconduct

It is professional misconduct for a lawyer to:

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

III. DISPOSITION

Upon review of the forgoing findings of fact, upon review of exhibits presented by Bar Counsel on behalf of the Virginia State Bar as Exhibits 1 through 20, and 22, upon evidence from witnesses presented on behalf of the Bar, and at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After due deliberation, the Board reconvened and stated its findings as follows:

1. The Board determined that the Bar failed to prove by clear and convincing evidence any violation of Rule 1.15(a), (b), and (c)(1).

2. The Board determined that the Bar did prove by clear and convincing evidence that the Respondent was in violation of Rules 1.3(a) and (b), 1.4(a) and (b), 1.15(c)(3) and (c)(4), 1.16(d), 8.1(c) and (d), and 8.4(c).

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar, including Respondent's prior disciplinary record. The Board recessed to determine what sanctions to impose upon its findings of misconduct by Respondent. After due deliberation, the Board reconvened to announce the sanction imposed. The Chair announced the sanction as revocation of the Respondent's license.

Accordingly, it is ORDERED that the license of the Respondent, Peter Campbell Sackett, be revoked as of February 19, 2010.

It is further ORDERED that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 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 revocation of his 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. Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client(s). Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective date of the revocation if 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 the revocation, he shall submit an Affidavit to that effect to the

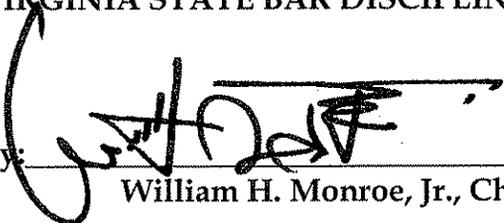
Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for a hearing before a three-judge court.

It is further ORDERED that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further ORDERED that the Clerk of the Disciplinary System shall send a certified copy of this Order by certified mail to Peter Campbell Sackett at his last address of record with the Virginia State Bar at 5058 Boonsboro Road, Lynchburg, Virginia 24503, and shall hand-deliver a copy to Renu Mago Brennan, Assistant Bar Counsel at 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 10th day of March, 2010.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By:  _____
William H. Monroe, Jr., Chair