

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTERS OF
PETER CAMPBELL SACKETT**

VS B Docket Nos. 07-090-2130 and 07-090-070324

MEMORANDUM ORDER

This matter came on to be heard on September 26, 2008 by the Disciplinary Board of the Virginia State Bar (the Board) on a Notice of Hearing on Certification for Sanction Determination entered by the Board on July 7, 2008 to hear a Certification for Sanction Determination issued by the Ninth District Committee on June 5, 2008. A panel of the Virginia State Bar Disciplinary Board was duly convened and consisted of William H. Monroe, Jr. (Chair), Paul M. Black, Martha J.P. McQuade, Russell W. Updike and Jody Katz, lay person (the Panel). The Chair 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 or her ability to be impartial in these matters. Each member, including the Chair verified they had no such interests.

Paulo E. Franco, Jr., Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and Respondent appeared in person *pro se*.

Bar Counsel introduced its Exhibits 1 through 5 which were received into evidence without objection, including the Respondent's prior Disciplinary Record. Bar Counsel and Respondent each presented oral argument as to what an appropriate alternative sanction should

be for Respondent's failure to comply with the Public Reprimand with Terms issued by the Ninth District Committee on October 12, 2007.

At the conclusion of argument, Bar Counsel and the Respondent met and conferred to consider a proposed Agreed Disposition of this matter prior to the Board retiring to deliberate the case. Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13.B.5.c., Bar Counsel and Respondent entered into a proposed Agreed Disposition and presented same orally to the Panel in open court.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, a majority of the Panel accepted the Agreed Disposition.

I. FINDINGS OF FACT

The Disciplinary Board finds the following facts by clear and convincing evidence:

1. On August 14, 2007, a Subcommittee of the Ninth District Committee of the Virginia State Bar accepted an Agreed Disposition in the above referenced cases that called for a Public Reprimand with Terms.
2. On October 12, 2007, a Subcommittee of the Ninth District Committee of the Virginia State Bar issued its determination in the above referenced cases of a Public Reprimand with Terms. A copy of the Subcommittee Determination is attached as Exhibit A and incorporated herein by reference.
3. The Virginia State Bar alleges that Respondent failed to comply with Terms 2-5 of the Subcommittee's Determination.
4. Pursuant to the Terms of the Determination, the Ninth District Committee would convene and hold a hearing to determine whether Respondent complied with the Terms if a question arose as to compliance.
5. The Virginia State Bar alleged that Respondent had not complied with the Terms set out in the Determination.

6. On March 25, 2008 the Virginia State Bar mailed a Notice of Show Cause Hearing to Respondent by Certified Mail, Return Receipt Requested, Receipt No. 7160 3901 9849 7545 6523 to Respondent's last known address of record. A copy of the Notice of Show Cause is attached as Exhibit B.

7. The Notice of Show Cause Hearing set the hearing for May 16, 2008 at 9:00 a.m. at the Lynchburg City Hall Meeting Room, Second Floor.

8. On May 16, 2008, the Ninth District Committee, duly convened and with a quorum present, opened the proceedings.

9. Respondent did not appear. The Chairman of the Committee attempted to contact Respondent at his office, but was unsuccessful.

10. The Ninth District Committee as convened then heard the evidence of the Bar.

11. The District Committee found that the Bar had mailed the Notice of Show Cause to Respondent at his last known address of record, and that the United States Postal Service tried on three separate occasions to deliver the Notice to Respondent.

12. The United States Postal Service returned the Notice of Show Cause to Virginia State Bar as "unclaimed."

13. The District Committee found that the Virginia State Bar made a prima facie showing that Respondent failed to meet Terms 2-5 of its Determination.

14. The District Committee further found that Respondent failed to show by clear and convincing evidence as to why the alternate sanction of Certification for Sanction Determination to the Disciplinary Board should not be imposed.

II. NATURE OF MISCONDUCT

Having adopted the findings of the Ninth District Committee in its Certification for Sanction Determination, the Disciplinary Board thereafter accepted the Agreed upon Sanction of Suspension of Thirty Days with Terms.

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that Respondent's License to Practice Law be suspended for a period of Thirty (30) Days, such suspension to begin on October 6, 2008.

It is further **ORDERED** that Respondent shall perform the following terms:

(1) On or before October 27, 2008, Respondent shall engage the services of a CPA (Certified Public Accountant) (a) who will certify familiarity with the requirements of Rule 1.15 of the Rules of Professional Conduct, and (b) who has been pre-approved by Assistant Bar Counsel to review Respondent's attorney trust account record-keeping, accounting, and reconciliation methods and procedures to ensure compliance with Rule 1.15 of the Rules of Professional Conduct. In the event the CPA determines that Respondent is in compliance with Rule 1.15, the CPA shall so certify in writing to Respondent and the Virginia State Bar. In the event the CPA determines Respondent is NOT in compliance with Rule 1.15, the CPA shall notify Respondent and the Virginia State Bar, in writing, of the measures Respondent must take to bring himself into compliance with Rule 1.15. Respondent shall provide the CPA with a copy of the Agreed Disposition at the outset of his engagement of the CPA.

(2) Respondent shall be obligated to pay when due the CPA's fees and costs for services (including provision to the bar and to Respondent of information concerning this matter);

(3) In the event the CPA determines that Respondent is NOT in compliance with Rule 1.15, Respondent shall have forty-five (45) days following the date the CPA issues a written statement of the measures Respondent must take to comply with Rule 1.15 within which to bring him into compliance. The CPA shall then be granted access to Respondent's office, books, and records, following the passage of the forty-five (45) day period to determine whether Respondent has brought himself into compliance as required. The CPA shall thereafter certify in writing to the Virginia State Bar and to Respondent either that Respondent has brought himself into compliance with Rule 1.15 within the forty-five (45) day period or that he has failed to do so. Respondent's failure to bring himself into compliance with Rule 1.15 as of the conclusion of the forty-five (45) day period shall be considered a violation of the Terms set forth herein.

(4) Unless an extension is granted by the bar for good cause shown to accommodate the CPA's schedule, the Terms specified in paragraphs 2, 3, and 4, shall be completed no later than February 27, 2009.

(5) On or about February 2010, the CPA engaged pursuant to paragraph 2 shall reassess Respondent's attorney's trust account record-keeping, accounting, and reconciliation methods and procedures to ensure continued compliance with Rule 1.15 of the Rules of Professional

Conduct. In the event the CPA determines that Respondent has NOT remained in compliance with this Rule, such non-compliance will be considered a violation of the Terms set forth herein.

In the event that Respondent fails to comply with any or all of the terms outlined in paragraphs 1 through 5 of this Determination to the satisfaction of Bar Counsel, Bar Counsel shall issue a Rule to Show Cause to the Respondent requiring the Respondent to Show Cause, if any, why the Disciplinary Board should not impose an alternative sanction of SUSPENSION for One (1) Year. The sole issue to be determined by the Disciplinary Board will be Respondent's compliance with the terms of this Determination. The Respondent shall bear the burden of proof by clear and convincing evidence that he has met all the terms. Further, Respondent agrees to waive his right to have a three judge panel pursuant to Va. Code. Ann. § 54.1-3900 et seq. hear such matter. In the event that Respondent fails to show by clear and convincing evidence that he has met all the terms of this Determination, the Disciplinary Board shall impose the alternative sanction of One Year Suspension. Such suspension shall be in addition to any suspension contained in this Determination.

Bar Counsel and Respondent agree that any notice required to be given by Rule to Show Cause shall be by Certified Mail, Return Receipt Requested to Respondent at Peter C. Sackett, P.C., 714 Court Street, Lynchburg, Virginia 24504. Respondent and Bar Counsel agree that any notice required shall be deemed given and complete by Bar Counsel depositing such notice as set forth herein.

It is further ORDERED that Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) 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 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. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. 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.

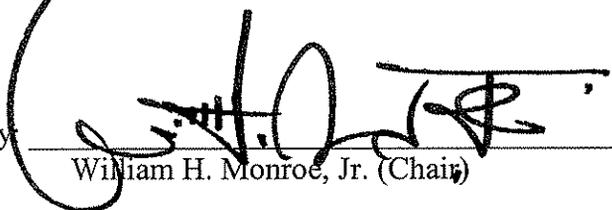
It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13.B.8.c.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a certified copy of this order to Peter Campbell Sackett at his last address of record with the Virginia State Bar.

Jennifer Hairfield of Chandler & Halasz, PO Box 9349, Richmond, Virginia 23227 was the court reporter for the hearing and transcribed the proceedings.

ENTERED: October 2, 2008

VIRGINIA STATE BAR DISCIPLINARY BOARD

By  _____
William H. Monroe, Jr. (Chair)