

VIRGINIA:

BEFORE THE TENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
David Samir Saliba

VSB Docket No. 11-101-087198

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On May 15, 2013 a meeting was held in this matter before a duly convened Tenth District—Section I Subcommittee consisting of William Rex Webb, John Stiles Huntington, and Beverly McDonald Davis. During the meeting, the Subcommittee voted to approve an Agreed Disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4 of the Rules of the Supreme Court of Virginia. The Agreed Disposition was entered into by the Virginia State Bar, by Edward James Dillon, Jr., Assistant Bar Counsel; and David Samir Saliba, Respondent; and Michael L. Rigsby, Esquire, counsel for Respondent.

WHEREFORE, the Tenth District—Section I Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all relevant times, Respondent David Samir Saliba (“Respondent”) has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent admitted to the Virginia State Bar (the “Bar”), during the course of the Bar’s investigation of this matter, that he failed to timely file personal income tax returns for tax years 2004, 2005, 2006, 2007, 2008, 2009, 2010, and 2011. Respondent estimates his personal income tax liability for tax years 2004 to 2011 to be approximately \$25,000 (the “Personal Income Tax Liability”).

3. Respondent represented to the Bar that he has since filed his personal income tax returns for 2004 and is in the process of having the remaining overdue personal income tax returns prepared and filed.
4. Respondent also admitted to the Bar that he had failed to timely pay all of the state payroll tax liabilities for Saliba & Company, P.C. for the time period 2004 to 2008 (the "State Payroll Tax Liability"). Respondent is the sole shareholder of Saliba & Company, P.C. Prior to the completion of the Bar's investigation, Respondent represented that he had met with representatives of the Virginia Department of Taxation and that he had satisfied the State Payroll Tax Liability in full.
5. Respondent also admitted to the Bar that he had failed to pay approximately \$47,000 in federal withholding taxes, social security taxes, and Medicare taxes for three employees of Saliba & Company, P.C. between 2004 and 2010 (the "Federal Payroll Tax Liability"). Respondent stated that the economic downturn decimated his law practice and that, since April 2010, neither he nor Saliba & Company, P.C. has had any employees.
6. Respondent also stated to the Bar that he did not misrepresent any information to the Internal Revenue Service and that he had filed correct and accurate W-2s and W-3s pertaining to the Federal Payroll Tax Liability. He told the Bar that he was unable to remit payments for the Federal Payroll Tax Liability and that the Internal Revenue Service has since assessed him for the Federal Payroll Tax Liability.
7. Respondent attributed his failure to timely file his personal income tax returns and to timely pay the State Payroll Tax Liability and the Federal Payroll Tax Liability to multiple hard drive crashes that resulted in the loss of financial data; personal problems, including multiple surgeries; and a dramatic decrease in revenues generated by his law practice, which resulted in Respondent filing for personal bankruptcy and which adversely impacted Respondent's ability to pay his accountant to resolve his outstanding tax issues.
8. Respondent stated that he has re-focused his law practice and is in the process of repaying his tax liabilities, including the Personal Income Tax Liability and the Federal Payroll Tax Liability, from revenues generated by his law practice.

II. NATURE OF MISCONDUCT

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

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[.]*

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, having approved the Agreed Disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are:

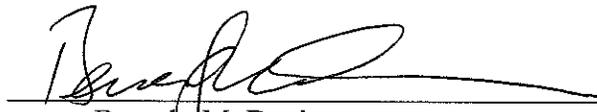
1. Within ninety (90) days of service of the Subcommittee Determination in this matter, Respondent shall notify Assistant Bar Counsel Edward J. Dillon or his designee ("Assistant Bar Counsel") in writing of the status of each of the tax issues described in the Stipulations of Fact herein, including the status of the filing of his personal income tax returns, the status of his Personal Income Tax Liability, and the status of his Federal Payroll Tax Liability.
2. Respondent shall also notify Assistant Bar Counsel in writing when he has prepared and filed the personal income tax returns described in the Findings of Fact, when he has paid the Personal Income Tax Liability described in the Findings of Fact, and when he has paid in full the Federal Payroll Tax Liability described in the Findings of Fact. Until such time as Respondent has provided these notifications, Respondent shall annually notify Assistant Bar Counsel in writing of the status of the filing of his personal income tax returns, his Personal Income Tax Liability, and his Federal Payroll Tax Liability (the "Status Report"). The Status Reports shall be sent to Assistant Bar Counsel by January 31 of each year beginning in 2014 and shall include a detailed explanation of the reasons Respondent has not satisfied these obligations and his anticipated time frame for doing so.

If the terms are not met by the dates described above, Respondent agrees that the alternative disposition imposed by the District Committee shall be a Certification for Sanction Determination, pursuant to Part 6, § IV, ¶¶ 13-15.F and 13-15.G of the Rules of the Supreme Court of Virginia. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed pursuant to ¶ 13-9.E of the Rules of the Supreme Court of Virginia.

This Subcommittee Determination is limited to the facts described herein and does not extend to any tax issues, past, present or future, not specifically addressed in the Findings of Fact

set forth herein. Pursuant to Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

TENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

A handwritten signature in black ink, appearing to read 'Beverly M. Davis', is written over a horizontal line.

Beverly M. Davis
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on May 23, 2013, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to David Samir Saliba, Respondent, at SALIBALAW PC, 440 E Main Street, Wytheville, VA 24382, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Michael L. Rigsby, counsel for Respondent, at Michael L. Rigsby, PC, P.O. Box 29328, Henrico, VA 23242.



Edward James Dillon, Jr.
Assistant Bar Counsel