

VIRGINIA:

BEFORE THE FIFTH DISTRICT SECTION I  
SUBCOMMITTEE OF THE VIRGINIA STATE BAR

IN THE MATTERS OF  
Jad Najate Sarsour

VS  
VS  
VS

VS B Docket No. 12-051-088751  
VS B Docket No. 11-051-086983  
VS B Docket No. 12-051-089396

MAR 7 2013

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On the 30<sup>th</sup> day of January, 2013, a meeting in this matter was held before a duly convened subcommittee of the Fifth District Committee, Section I, consisting of Maureen E. Danker, Esquire, James R. Carroll, Lay Member, and Brendan D. Harold, Esquire, presiding.

Pursuant to Part 6, § IV, ¶ 13-15.B.4.c of the *Rules of Virginia Supreme Court*, that subcommittee of the Fifth District Committee, Section I, of the Virginia State Bar hereby serves upon the Respondent the following Agreed Disposition, a Public Reprimand with Terms.

I. FACTS

1. At all times relevant hereto, Jad Najate Sarsour (hereinafter the "Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.

**As to VSB Docket No. 12-051-088751**

2. On or around July 27, 2011, a complaint was filed against Respondent by Complainant #1, alleging that Respondent routinely failed to deposit client funds into an approved IOLTA attorney trust account.

3. In his response, filed through counsel, Respondent admitted that "[u]ntil recently" all client funds were deposited into the firm operating account, "in the mistaken belief that the nature of [Respondent's] practice did not require the funds to be placed in trust." Respondent attempted to justify this "mistaken belief" by stating that the

majority of his work involved cases (“criminal defense, bankruptcy, immigration, domestic relations and personal injury matters”) that are resolved within two weeks or less, and other clients pay the fee required in installments, not completing their payments until after the fees have been earned. The types of cases cited by Respondent are not typically resolved within only a few weeks, however, and often take years to complete. In addition, Respondent admitted to handling personal injury matters in which he received insurance company settlement funds which he also failed to deposit to an approved attorney trust account.

4. In addition, during an interview with Virginia State Bar Investigator Ronald H. McCall, Respondent admitted that, even at the time of the interview, he still did not perform the required reconciliations, or maintain the records he is required to maintain keeping only a cash receipts journal, which he permitted Investigator McCall to inspect.

5. There is no evidence that any financial defalcations or irregularities occurred during this timeframe.

**As to VSB Docket No. 11-051-086983**

6. On or around February 22, 2012, a complaint was filed against Respondent by Complainant #2, formerly an independent contractor attorney doing immigration work for Respondent’s law firm. Complainant alleged that, during her employment with Respondent’s firm, Respondent failed to handle client funds in accordance with Rule of Professional Conduct 1.15.

7. Respondent admitted that from June to August, 2011, he failed to deposit client funds to an approved attorney IOLTA account assuming that "flat fees" were earned when paid and could be deposited directly to his attorney operating account.
8. Respondent further admitted that, although he has been a sole practitioner since 2009, he first opened a trust account in June, 2011.
9. There is no evidence that any financial defalcations or irregularities occurred during this timeframe.

**As to VSB Docket No. 12-051-089396**

10. On or around September 22, 2011, a complaint was filed against Respondent by Complainant #3, alleging that he retained Respondent's law firm to represent his son on a DUI charge. Complainant #3 alleged that Respondent advised him that, if his son pled guilty under a particular statute, the charge would be reduced to a traffic infraction and would not be treated as a misdemeanor conviction. Complainant and his son agreed and the son pled guilty as advised by Respondent. Complainant subsequently learned that the plea resulted in a misdemeanor conviction and, when he reported this to Respondent, Respondent promised to take care of the matter but failed to do so. This complaint followed, and the matter was referred for investigation.
11. During the course of that investigation, Respondent stated that the statute under which his client had been charged had been amended to provide that a conviction under said statute would be classified, effective July 1, 2011, as a misdemeanor. Because the offense pre-dated this effective date, Respondent correctly stated that his client should have been given the benefit of the earlier statute resulting in only a traffic infraction.

12. During an interview with Investigator McCall, Respondent reiterated the above and stated that, since it was the Clerk's error, all that "someone" had to do was bring this to the Clerk's attention in the appropriate fashion.

13. Also incident to the investigation of this case, Investigator McCall interviewed the Commonwealth's Attorney assigned to the underlying criminal matter who confirmed that the date of the offense, not the conviction, controlled and, in fact, the Clerk had erred. The prosecutor further advised Investigator McCall as to what steps needed to be taken to remedy the problem.

14. Investigator McCall, in turn, passed this information onto to the Respondent. It was only at that point that Respondent took the necessary steps to assist his client and have the record corrected.

**As to VSB Docket No. 12-051-089396**

15. On or around September 22, 2011, a complaint was filed against Respondent by Complainant #3, alleging that he retained Respondent's law firm to represent his son on a DUI charge. Complainant alleged that Respondent advised him that, if his son pled guilty under a particular statute, the charge would be reduced to a traffic infraction and would not be treated as a misdemeanor conviction. Complainant and his son agreed and the son pled guilty as advised by Respondent. Complainant subsequently learned that the plea resulted in a misdemeanor conviction and, when he reported this to Respondent, Respondent promised to take care of the matter but failed to do so. This complaint followed, and the matter was referred for investigation.

16. During the course of that investigation, Respondent stated that the statute under which his client had been charged had been amended to provide that a conviction under said statute would be classified, effective July 1, 2011, as a misdemeanor. Because the offense pre-dated this effective date, Respondent stated that his client should have been given the benefit of the earlier statute resulting in only a traffic infraction.

17. During an interview with Investigator McCall, Respondent reiterated the above and stated that, since it was the Clerk's error, all that "someone" had to do was bring this to the Clerk's attention in the appropriate fashion.

18. Also incident to the investigation of this case, Investigator McCall interviewed the Commonwealth's Attorney assigned to the underlying criminal matter who confirmed that the date of the offense, not the conviction, controlled and, in fact, the Clerk had erred. The prosecutor further advised Investigator McCall as to what steps needed to be taken to remedy the problem.

19. Investigator McCall, in turn, passed this information onto to the Respondent. It was only at that point that Respondent took the necessary steps to assist his client and have the record corrected.

#### I. NATURE OF MISCONDUCT

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

#### **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:

(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;

### (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.

### **III. PUBLIC REPRIMAND WITH TERMS**

Accordingly, it is the decision of the Subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which by the deadline set forth below shall be a predicate for the disposition of this complaint by imposition of a Public Reprimand with Terms. The terms and conditions which shall be met by the dates certain specified are:

1. Within thirty (30) days of the issuance of this Determination, Respondent shall read, and certify to the undersigned that he has done so, RPC 1.15, LEO 1606 and *Lawyers and Other People's Money* in their entirety.
2. Within nine (9) months of the issuance of this Determination, Respondent shall attend a **live** law office practice management and/or trust account management Continuing Legal Education class for which he will receive **no credit** towards his annual Continuing Legal Education requirement.
3. The Respondent shall, within thirty (30) days following issuance of this Determination, engage the services of a law office management consultant to review Respondent's law office management practices and procedures to aid in Respondent's future compliance with all Rules of Professional Conduct. Respondent acknowledges that he has been provided with the contact information for two (2) consultants who are acceptable to the Virginia State Bar.
4. The Respondent shall promptly inform Assistant Bar Counsel Kathleen M. Uston, 707 East Main Street, Suite 1500, Richmond, Virginia 23219, in writing, that he has engaged the law office management consultant as required herein. The Respondent shall be obligated to pay when due the consultant's fees and costs for his/her/their services (including provision to the Bar and to the Respondent of information concerning this matter).
5. The consultant shall review all of the Respondent's law office management practices and procedures, in general, but shall focus particularly upon those practices and procedures which involve client communication, trust account maintenance, and trust accounting

procedures and reconciliations. In the event that the consultant determines that the Respondent has practices and procedures in place so as to aid in his future compliance with the Rules of Professional Conduct, the consultant shall so certify in writing to the Respondent and the Virginia State Bar. In the event that the consultant determines that the Respondent does not have such practices and procedures in place so as to aid in his future compliance with the Rules of Professional Conduct, then, and in that event, the consultant shall notify the Respondent and the Virginia State Bar, in writing, of the measures that the Respondent must take to improve his practices and procedures.

6. In the event the consultant determines that the Respondent's law office practices and procedures are deficient such that, in the consultant's opinion, the Respondent will likely commit future violations of one or more of the Rules of Professional Conduct, the Respondent shall have sixty (60) days following the date the consultant issues his/her written statement of the measures the Respondent must take to institute such measures.
7. The consultant shall be granted access to the Respondent's office following the passage of the sixty (60) day period to determine whether the Respondent has instituted such measures. The consultant shall thereafter certify in writing to the Virginia State Bar and to the Respondent either that the Respondent has instituted the recommended measures within the sixty day (60) period or that he has failed to do so. The Respondent's failure to conform his law office management practices and trust accounting procedures to the consultant's recommendations at of the conclusion of the aforesaid sixty (60) day period shall be considered a violation of the Terms set forth herein.

If the above terms are not met by the deadlines specified above, then Respondent agrees that the District Committee shall impose a suspension of his license to practice law in the Commonwealth of Virginia for a period of six (6) months pursuant to Part 6, § IV, ¶ 13-15.F 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.

Upon satisfactory proof that the above noted terms and conditions have been met, a Public Reprimand shall be imposed. If, however, the Respondent shall fail to comply with the terms and conditions set forth above, then this matter shall be certified to the Disciplinary Board for Sanction Determination upon an agreed stipulation of facts and misconduct as to the facts and misconduct as set forth herein pursuant to Part Six, Section IV, Paragraph 13-15.G of the *Rules of the Supreme Court*.

Pursuant to Part Six, Section IV, Paragraph 13.9.E of the *Rules of the Supreme Court*, the Clerk of the Disciplinary System shall assess costs

FIFTH DISTRICT SECTION I SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By

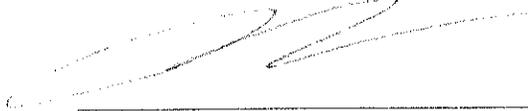


Brendan D. Harold, Esquire  
Chair

(Certificate of Service on Page 11)

CERTIFICATE OF SERVICE

I certify that I have on this 5<sup>th</sup> day of March, 2013, mailed a true and correct copy of the Subcommittee Determination (Public Reprimand with Terms) by CERTIFIED MAIL to Respondent, Jad R. Sarsour, Esquire, Vienna Law Group, P.C., 10615 Judicial Drive, Suite 101, Fairfax, VA 22030, his last address of record with the Virginia State Bar, and to Richard Driscoll, Esquire, Respondent's Co Counsel, David Ross Rosenfeld, P.C., 1602 Belle View Boulevard, #655, Alexandria, VA 22125.



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Kathleen M. Uston  
Assistant Bar Counsel