

VIRGINIA:

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

IN THE MATTER OF CHRISTOPHER BROUGHTON SHEDLICK, ESQUIRE  
VSB Docket No. 07-051-070816

SUBCOMMITTEE DETERMINATION  
PUBLIC REPRIMAND WITH TERMS

On the 2<sup>nd</sup> day of May, 2009, a meeting in this matter was

held before a duly convened subcommittee of the Fifth District Committee Section I consisting of John Coffey, Esquire, Harry L. Thomas, Lay Member, and Beth A. Bittel, Esquire, presiding.

Pursuant to Part 6, § IV, ¶ 13-15.B.4.c of the *Rules of Virginia Supreme Court*, a 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. FINDINGS OF FACT

1. At all times relevant hereto, Christopher Broughton Shedlick (hereinafter the "Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. In October, 2002, the Respondent formed the law firm of "C. Broughton Shedlick and Associates." The Respondent utilized letterhead and business cards identifying his firm as "C. Broughton Shedlick and Associates," and held himself out to the public in this way, despite the fact that, at the time the firm was formed, he was actually practicing as a sole proprietor and had no associates in his office.
3. In August, 2003, the Respondent signed a lease to rent the office space located at 6408-R Seven Corners Place, Falls Church, Virginia. The tenant from whom the Respondent

took over this office space was Paul C. Walsh, a disbarred Virginia attorney whose license to practice law in the Commonwealth of Virginia was revoked on August 23, 2002.

4. Nancy Nguyen Bowyer (hereinafter "Ms. Bowyer"), a non-lawyer, began working for Mr. Walsh in 1994 as his office manager, and continued working for him until his disbarment. Ms. Bowyer is Vietnamese, and Mr. Walsh's practice focused on representation of Vietnamese clients in personal injury matters, which clients Ms. Bowyer brought to the office due to her extensive contacts in that community.

5. Following Mr. Walsh's disbarment, his practice, and the office space located at 6408-R Seven Corners Place, were taken over by another attorney, Michael Strong. Ms. Bowyer then began working for Mr. Strong as office manager.

6. In May, 2002, the Respondent began working for Mr. Strong as an independent contract attorney. Following Mr. Strong's departure from the office space located at 6408-R Seven Corners Place, the Respondent took over both the practice and the office space. Ms. Bowyer then began working for the Respondent. Ms. Bowyer describes herself as being the office manager of Respondent's firm, also performing marketing for the firm.

7. Following his taking over this practice and the office space, the Respondent began representing Vietnamese clients in personal injury cases brought to the office by Ms. Bowyer. The Respondent testified that his Vietnamese clients make up 90% of his client base, that Ms. Bowyer is the "primary source of his clients," and that without her, his practice would cease to exist.<sup>1</sup>

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<sup>1</sup> The Respondent was deposed within the context of a civil proceeding in which he, the Respondent, filed suit against the Complainant herein, Donald E. Peden, to collect fees the Respondent contended the Complainant owed to him for a case referred to Mr. Peden by the Respondent and Ms. Bowyer. All references to both the Respondent's and Ms. Bowyer's testimony refers to their sworn deposition testimony given in that case.

8. Following his taking over this practice and the office space, the Respondent also began using the telephone number(s) utilized by Mr. Walsh and, in fact, the telephone was still listed in the name of "Paul C. Walsh" as recently as February, 2009. The Respondent would testify that he attempted to change the listing of the firm telephone numbers without success.

9. Following his taking over this practice and the office space, the Respondent began placing advertisements in Vietnamese newspapers, and elsewhere in the community, using the telephone number(s) in the name of Mr. Walsh and including a photograph of Mr. Walsh in these advertisements. Photographs of Mr. Walsh were also displayed in Respondent's office.

10. The advertisements were prepared by Ms. Bowyer, who continued to use Mr. Walsh's likeness therein due to the fact that the Vietnamese community was familiar with him since he had been working in that community, with Ms. Bowyer, for ten (10) years. Ms. Bowyer testified that use of Mr. Walsh's picture directly benefited the Respondent and helped him to "have more clients." Ms. Bowyer's photograph also appears in these advertisements for the Respondent's law firm, together with her cellular telephone number. The Respondent was fully aware of the content of these advertisements, but did not instruct Ms. Bowyer to discontinue use of the likeness of Mr. Walsh or to otherwise change the advertisements until early 2008.

11. Ms. Bowyer testified that the Respondent paid Mr. Walsh "once in awhile" for use of his likeness in these advertisements.

12. The Respondent compensates Ms. Bowyer by paying her a salary, and he also pays her a "bonus" on personal injury cases which is calculated, at least in part, based upon the amount of the settlement of individual personal injury cases. The majority of these "bonus" checks are made out to, and signed by, Ms. Bowyer herself, who, until June, 2008, had signatory authority on all of the Respondent's law firm bank accounts including his attorney operating

account and his IOLTA trust account. The Respondent would testify that he is responsible for review and approval of trust account reconciliations and other required reports, and that he regularly performs this function as required.

13. Ms. Bowyer is the primary point of contact with the Respondent's Vietnamese clients, most of whom do not speak English. She conducts client interviews, negotiates with their health care providers to reduce their liens, calculates the settlement disbursements the clients are to receive, prepares settlement statements, and makes out and signs settlement checks following settlement of personal injury cases. Ms. Bowyer also assigns new personal injury and other types of cases brought to the Respondent's firm by her to the Respondent and various independent contractor attorneys affiliated with the Respondent's firm, making the decision as to which attorney will handle which case. Ms. Bowyer carries out these and other substantive tasks without the level of supervision by the Respondent required under the applicable Rules of Professional Conduct.

14. The Respondent certifies that he has now taken steps to ensure that, at all times, he exercises appropriate oversight over all of Ms. Bowyer's contacts with his clients, and exercises appropriate oversight over Ms. Bowyer, and all of his non-lawyer employees, in the conduct of all of their duties.

15. The Respondent certifies that he now utilizes letterhead and business cards which are completely accurate and do not have even the potential of being misleading.

16. The Respondent certifies that he is solely responsible for, and conducts, monthly and quarterly reconciliations of his law firm trust account, and that he holds sole signatory authority over that account.

17. The Respondent has also removed all likeness of, and/or references to, Paul C. Walsh from his advertisements and his law office, and certifies that he will not, in the future, utilize either Mr. Walsh's name or likeness in any advertisement or in his law office.

18. The Respondent certifies that Ms. Bowyer's compensation is based solely upon an agreed upon salary, and that any bonuses she may or other law firm employees may be paid are based upon the total income of the firm, and are not calculated based upon the monetary settlement and/or value of any particular case.

## II. NATURE OF MISCONDUCT

The Subcommittee finds that the following Rules of Professional Conduct have been violated:

### **Rule 5.3 Responsibilities Regarding Non-lawyer Assistants**

With respect to a non-lawyer 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 non-lawyer 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 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 5.4 Professional Independence Of A Lawyer**

- (a) A lawyer or law firm shall not share legal fees with a non-lawyer, except that:
- (1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;
  - (2) a lawyer who undertakes to complete unfinished legal business of a deceased, disabled, or disappeared lawyer may pay to the estate or other representative of that lawyer that portion of the total compensation that fairly represents the services rendered by the deceased, disabled or disappeared lawyer; and
  - (3) a lawyer or law firm may include non-lawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

**Rule 5.5 Unauthorized Practice Of Law**

- (a) A lawyer shall not:
- (2) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

**Rule 7.1 Communications And Advertising Concerning A Lawyer's Services**

- (a) A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication or advertisement violates this Rule if it:
- (1) contains misleading fee information[.]

In the determination of whether a communication or advertisement violates this Rule, the communication or advertisement shall be considered in its entirety including any qualifying statements or disclaimers contained therein.

**Rule 7.5 Firm Names And Letterheads**

- (a) A lawyer or law firm may use or participate in the use of a professional card, professional announcement card, office sign, letterheads, telephone directory listing, law list, legal directory listing, website, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading,

or deceptive. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1 and 7.2.

- (d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

### III. PUBLIC REPRIMAND WITH TERMS

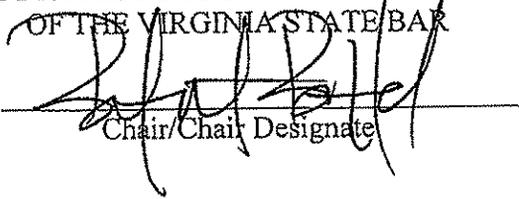
Accordingly, it is the decision of the Subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which shall be a predicate for the disposition of this complaint by imposition of a Public Reprimand. The terms and conditions which shall be met by Christopher Broughton Shedlick are:

1. The Respondent shall, within thirty (30) days of the issuance of this Determination, certify in writing to Assistant Bar Counsel Kathleen M. Uston that he has read Virginia Rule of Professional Conduct 5.3, all Comments and Notes thereto, and that he has read the American Bar Association Model Rule 5.3 and all Comments and Notes thereto, found at the following website address: <http://www.abanet.org/cpr/professionalism/amr6.pdf>.
2. The Respondent shall, within thirty (30) days of the issuance of this Determination, certify in writing to Assistant Bar Counsel Kathleen M. Uston that the affirmative representations contained in Paragraphs 14-18 are true and accurate.
3. The Respondent shall, within six (6) months of the issuance of this Determination, certify in writing to Assistant Bar Counsel Kathleen M. Uston that he has attended four (4) hours of live Continuing Legal Education programs in the area of Law Office Practice Management. This requirement may not be fulfilled with an on-line or telephonic C.L.E. course, and the Respondent **shall not** count the credit given towards his annual M.C.L.E. requirement.

Upon satisfactory proof that the above noted terms and conditions have been met, a Public Reprimand with Terms shall then be imposed. If, however, the terms and conditions have

not been met by the Respondent, then this matter shall be certified to the Disciplinary Board for sanction determination.

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 SUBCOMMITTEE SECTION I  
OF THE VIRGINIA STATE BAR  
By   
Chair/Chair Designate

CERTIFICATE OF SERVICE

I certify that I have this 8<sup>th</sup> day of June, 2009, mailed a true and correct copy of the Subcommittee Determination (Public Reprimand with Terms) by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Respondent, Christopher Broughton Shedlick, Esquire, 6408-R Seven Corners Place, Falls Church, Virginia 22044, his last address of record with the Virginia State Bar.

  
Kathleen M. Uston  
Assistant Bar Counsel