

VIRGINIA:

**BEFORE THE FIFTH DISTRICT SUBCOMMITTEE, SECTION III
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
JON EDWARD SHIELDS**

VS Docket No. 12-053-088550

**SUBCOMMITTEE DETERMINATION
(Public Reprimand Without Terms)**

On 22 October 2013 a meeting was held in this matter before a duly convened Fifth District Subcommittee, Section III consisting of Timothy M. Purnell, Esquire, Subcommittee Chair, Peter Schwartz, Esquire, Member, and Robert L. Marsh, Lay Member.

During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand without 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 Prescott L. Prince, Assistant Bar Counsel, and Jon Edward Shields, Respondent.

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

I. FINDINGS OF FACT

1. At all times relevant hereto, Jon Edward Shields, (hereinafter "Respondent" or "Respondent Shields") has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. In or around March 2010, Mr. Shields was engaged to represent the Complainant, Dianne Agee Bumgardner (Ms. Agee) in an interpleader action in the Federal District Court

- (EDVA). The purpose of the interpleader action was to determine the proper beneficiary for the life insurance proceeds for Ms. Agee's step-grandfather who had died in 2008.¹
3. There was not a written retainer agreement between Mr. Shields and Ms. Agee.
 4. Mr. Shields was paid \$5,000 to represent Ms. Agee at the outset of the representation. When Mr. Shields received the \$5,000, he deposited it into his operating account instead of his trust account. At the time Mr. Shields placed the \$5,000 into the operating account, he had not earned all of said funds.
 5. Throughout the entire period of the representation, Ms. Agee lived in the State of California. During the course of the representation, all communication between Ms. Agee and Mr. Shields was accomplished by means of telephone, electronic mail and/or regular mail.
 6. Mr. Shields did maintain communication with Ms. Agee during the early stages of the representation. As the representation continued, Mr. Shields' efforts to communicate with Ms. Agee decreased.
 7. The hearing on the merits for the Interpleader action in the Federal District Court for the Eastern District of Virginia was held on or about 22 February 2013. Ms. Agee had previously informed Mr. Shields that she would not be able to attend the hearing.
 8. Mr. Shields did not maintain continuing communication with Ms. Agee as the case neared the hearing date.

¹ Ms. Agee had, at one time been the sole beneficiary of the benefits, but in 2005, without notice to Ms. Agee, the beneficiary was changed from Ms. Agee to an individual who had been a longtime friend of the decedent. Ms. Agee lived in California and had not physically seen her step-grandfather or visited with him, other than by telephone for approximately 10 years prior to his death. Notwithstanding her lack of contact, Ms. Agee contended that her step-grandfather did not have the mental capacity to change beneficiaries.

9. The outcome of the court hearing was unfavorable for Ms. Agee as the Court rejected her assertion that her step-grandfather lacked the requisite mental capacity to change beneficiaries of his life insurance policy.
10. Mr. Shields did not contact Ms. Agee to advise her of the court outcome, or of her options regarding the filing of an appeal. Mr. Shields continuously failed to contact Ms. Agee despite numerous e-mails sent by Ms. Agee to Mr. Shields in which she virtually begged him to contact her to discuss the case with her.
11. Ms. Agee eventually and on two separate occasions demanded that Mr. Shields provide her with a copy of her file. Mr. Shields did not respond to her request on either occasion.

II. NATURE OF MISCONDUCT

Such conduct by Jon Edward Shields constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

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.

Rule 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.

Rule 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).

(e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of the representation.

III. PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, it is the decision of the Fifth District, Section III Subcommittee to impose a PUBLIC REPRIMAND without terms in accordance with the approved Agreed Disposition, and he is hereby so reprimanded. 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.

**FIFTH DISTRICT SUBCOMMITTEE,
SECTION III, OF THE VIRGINIA
STATE BAR**

By: 

Timothy M. Purnell
Subcommittee Chair Presiding

CERTIFICATE OF MAILING

I certify that on this 5 day of November 2013, a true and complete copy of the Subcommittee Determination (Public Reprimand Without Terms) was sent by certified mail, return receipt requested, to Jon Edward Shields, Respondent, at Jon E. Shields, P.C., P. O. Box 10007, Manassas, VA 20108-0595, that being his last known address of record with the Virginia State Bar.



Prescott L. Prince
Assistant Bar Counsel