

VIRGINIA:

Before the Virginia State Bar Disciplinary Board

In the Matter of

William Orr Smith

VSB Docket No. 11-033-087083

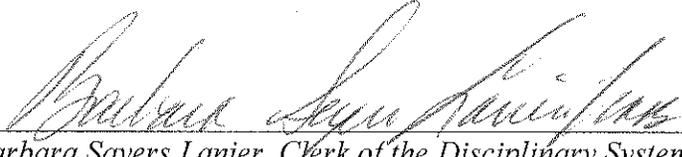
Attorney at Law

On June 10, 2011, came William Orr Smith and presented to the Board an Affidavit Declaring Consent to Revocation of his license to practice law in the courts of this Commonwealth. By tendering his Consent to Revocation at a time when disciplinary charges are pending, he admits that the charges in the attached Affidavit Declaring Consent to Revocation are true.

The Board having considered the said Affidavit Declaring Consent to Revocation, and Bar Counsel having no objection, the Board accepts his Consent to Revocation. Accordingly, it is ordered that the license to practice law in the courts of this Commonwealth heretofore issued to the said William Orr Smith be and the same hereby is revoked, and that the name of the said William Orr Smith be stricken from the Roll of Attorneys of this Commonwealth.

Entered this 13th day of June, 2011

For the Virginia State Bar Disciplinary Board

By 
Barbara Sayers Lanier, Clerk of the Disciplinary System

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
WILLIAM ORR SMITH

VSB Docket No. 11-033-087083

RECEIVED

JUN 10 2011

VSB CLERK OFFICE

AFFIDAVIT DECLARING CONSENT TO REVOCATION

William Orr Smith, after being duly sworn, states as follows:

1. That William Orr Smith was licensed to practice law in the Commonwealth of Virginia on 02/24/1967;
2. That William Orr Smith submits this Affidavit Declaring Consent to Revocation pursuant to Rule of Court, Part 6, Section IV, Paragraph 13-28.
3. That William Orr Smith's consent to revocation is freely and voluntarily rendered, that William Orr Smith is not being subjected to coercion or duress, and that William Orr Smith is fully aware of the implications of consenting to the revocation of his license to practice law in the Commonwealth of Virginia;
4. William Orr Smith is aware that there is currently pending a complaint, an investigation into, or a proceeding involving, allegations of misconduct, the docket number for which is set forth above, and the specific nature of which is here set forth:

The Respondent, William Orr Smith, is the owner/operator of Montbrook Title, LLC (Montbrook), a title insurance agency. For a number of years, Mr. Smith's primary client was LandSafe, Inc., a wholly owned subsidiary of Bank of America that provided real estate settlement services. LandSafe hired Mr. Smith to conduct residential real estate settlements and foreclosures of homes with loans financed by Bank of America in Maryland and Virginia.

First American Title Insurance Company (First American) was the underwriter for Mr. Smith's title insurance agency. In accordance with Chapter 27.3, Title 55 of the Code of Virginia Code (Real Estate Settlement Agents), First American conducted annual audits of Mr. Smith's escrow accounts, and provided its reports to the Bureau of Insurance, Virginia State Corporation Commission (SCC).

On December 21, 2010, First American conducted an audit of Mr. Smith's escrow accounts for the period October through December 2010. The auditor reported that Mr. Smith provided no reconciliations for his escrow accounts for the period audited, that he was behind in his reconciliations, and that his accounts had not been reconciled since October 2009. The auditor also reviewed his checks and debits, noting that 22 checks clearing the Virginia escrow account were associated with Maryland real estate settlements, while he conducted no Virginia settlements during the same time period. As a result of the report, American Title withdrew Mr. Smith's appointment, which acted to prohibit him from underwriting title insurance. On March 8, 2011, Mr. Smith surrendered his personal and agency title agent licenses to the SCC Bureau of Insurance.

On February 24, 2011, Bank of America reported to LandSafe that it had not received \$628,758.27 from a residential settlement conducted by Mr. Smith on February 10, 2011 pertaining to 19209 Autumn Maple Lane, Gaithersburg, Maryland (Autumn Maple Lane). Mr. Smith never forwarded the proceeds to Bank of America as indicated on his settlement statement. As of March 31, 2011, his escrow accounts had a collective balance of less than \$20,000.

In response to a subpoena duces tecum issued March 25, 2011, Mr. Smith furnished his real estate bank records and ledgers for the period October 1, 2010 forward. Among the records was an individual ledger for the closing of Autumn Maple Lane on February 10, 2011. His ledger reflects seven checks totaling \$16,459.93 for recording fees and other disbursements related to the transaction, including \$870 to Mr. Smith. This accounting is consistent with his bank statements for Montbrook Title, LLC, escrow account, number 1000019495 at Monument Bank.

Mr. Smith's ledger for Autumn Maple Lane also reflects two deposits totaling \$648,528.85 on February 10, 2011, although his bank statement reflects a single deposit of \$648,528.85 on that date. Mr. Smith's ledger also indicates that he wired \$628,758.27 to US Bank National Association on February 10, 2011. (An amount equal to the amount that Bank of America said was missing.)

The bank records, however, reflect no such wire transfer. Instead, they show that on February 10, 2011, Mr. Smith wired \$10,000 to his operating account at Monument Bank, number 100019487, \$17,000 more to his Richmond, Virginia operating account at Towne Bank, account number 0213024578, and four more wire transfers (\$90,938.04; \$100,526.05; \$113,626.21 and \$290,864.77) totaling

\$595,955.07 to Bank of America at account number, 2350-14980.

Mr. Smith's Montbrook Title, LLC, escrow account bank records also reflect some large transfers of funds to his operating account at Monument Bank for Montbrook Title, LLC, account number 1000019487, with no corresponding entries on his ledgers. Specifically, he transferred \$2500 on November 18, 2010, \$7,500 on January 31, 2011, and \$20,000 on February 22, 2011, all to his operating account with no corresponding entries on his ledgers. On November 17, 2010, the escrow account became overdrawn, and Mr. Smith deposited \$30,000 by wire from one of his Virginia operating accounts at Towne Bank, and another \$2,000 from his operating account and Monument Bank.

Upon receipt of American Title's report, SCC investigator Latashia Brown met with Mr. Smith who said that approximately \$500,000 (five hundred thousand dollars) was missing from two Maryland properties upon which he had settled, and that he was "out of trust." He explained further that he was out of trust on all of his accounts and that he had been commingling funds from Virginia and Maryland transactions to cover shortages. When the investigator asked why he was out of trust, he explained (1) that he had a problem with a tax lien and bad business dealings; and (2) that he had done a very poor job of accounting. Mr. Smith explained further that the only client hurt was Bank of America, that he always paid the real estate brokers, pest inspectors, and other parties to the transactions. He advised he had two bonds. Mr. Smith has reported his misconduct to the Commonwealth's Attorneys for the City of Richmond and Henrico County.

Such Conduct by the Respondent is in violation of Rules 1.15(a), 1.15(c)(4), 1.15(e), 1.15(f), 8.4(b) and 8.4(c) of the Rules of Professional Conduct.

5. William Orr Smith acknowledges that the material facts upon which the allegations of misconduct are predicated are true; and
6. William Orr Smith submits this Affidavit and consents to the revocation of his license to practice law in the Commonwealth of Virginia because he knows that if the disciplinary proceedings based on the said alleged misconduct were brought or prosecuted to a conclusion, he could not successfully defend them.

Executed and dated on 5/10/2011.



William Orr Smith
Respondent

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Richmond, to wit:

The foregoing Affidavit Declaring Consent to Revocation was subscribed and sworn to before me by William Orr Smith on 5/10/2011.


Notary Public

My Commission expires: 1/31/2015 / 1222897