

VIRGINIA:

BEFORE THE SIXTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
JOSEPH ALBERT CHRISTIAN SYNAN

VSB Docket Nos.: 15-060-100399
15-060-101824

SUBCOMMITTEE DETERMINATION
(Public Reprimand With Terms)

On June 11, 2015 a meeting was held in this matter before a duly convened Sixth District Subcommittee consisting of William Fullerton Neely, Esquire, Chair, Donald S. Buckless, Esquire, Member, and Michael Lowell Heikes, Lay Member. 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 Prescott L. Prince, Assistant Bar Counsel, and Joseph Albert Christian Synan, *pro se*.

WHEREFORE, the Sixth District Subcommittee 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, Albert Christian Synan (hereinafter "Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.

Facts relating to VSB Docket No. 15-060-100399 (Complainant: Don C. Snellings, Jr.)

2. The Complainant in this matter, Mr. Snellings, retained the Respondent in March of 2014, to represent the Complainant in a simple no fault divorce. At the time that the

Respondent was retained, he advised Mr. Snellings that the divorce would take between six and eight weeks to complete.

3. At the time he was retained, Mr. Snellings provided the Respondent with all the information necessary for him to prepare and file the Complaint for Divorce. Nevertheless, the Respondent did not file the Complaint for Divorce until approximately three months after the date he was retained.
4. On two or more occasions during the time between when Mr. Snellings retained the Respondent and when the divorce Complaint was actually filed, Mr. Snellings attempted to contact the Respondent by telephone to inquire as to the status of the divorce proceedings. The Respondent either failed to respond to these telephone calls or, if he did respond, he informed Mr. Snellings that he would get to the paperwork the following day. The Respondent then continuously failed to follow through with these promises. Ms. Snellings contends that on one occasion, in mid-April 2014, the Respondent falsely informed him that the paperwork had been filed with the court. In fact, the divorce Complaint was not filed until June 2014.
5. After the divorce Complaint was finally filed, the matter progressed in a normal manner, and the final decree was entered on September 5, 2014. The decree was entered before the Respondent received notice of the bar complaint.
6. The Respondent provided evidence that he was suffering health problems that impacted his ability to address the divorce proceeding in a timely manner. These medical problems included hospitalization for gall bladder issues in May 2014 and, thereafter, treatment for other medical conditions. The Respondent acknowledged, however, that he did not make

his client aware of his medical condition and that he did not explain to him that he could not provide legal services in a timely manner.

Facts related to VSB Docket No. 15-060-101824 (Complainant: Virginia State Bar)

7. On February 2, 2015, the Virginia State Bar received notice that the Respondent's IOLTA Trust Account was overdrawn.
8. Upon receipt of the Notice, the Virginia State Bar opened an investigation, and a Virginia State Bar Investigator interviewed the Respondent.
9. The Respondent acknowledged the overdraft and advised that the immediate cause of the overdraft was his receipt of a counterfeit cashier's check that he received as a fee and was deposited into his IOLTA Trust Account.
10. The Respondent stated that prior to any deposits on January 9, 2015; he had a balance in his IOLTA Trust Account in the amount of \$425.15.
11. On January 9, 2015, the Respondent deposited the cashier's check for \$2,350 along with \$400 in currency obtained from another client for a total deposited amount of \$2,750. The Respondent stated that at the time of the deposit, he specifically asked the BB&T bank teller when the funds would be available and was told they would be available on January 13, 2015.
12. On January 14, 2015, the cashier's check was returned to BB&T, having deemed to be counterfeit. The Respondent asserts that the bank did not call him or otherwise notify him at that time to inform him that the check was counterfeit.
13. The Respondent stated that after making the \$2,750 deposit on January 9, 2015, he wrote the following checks:

- a. January 12, 2015: check in the amount of \$450, payable to the U.S. Bankruptcy Trustee for a payment in an unrelated case.
 - b. January 15, 2015: check for \$1,000 to an individual, at the direction of the client, who provided the Respondent with the \$2,350 cashier's check.
 - c. January 15, 2015: check in the amount of \$300 to the Respondent's estranged wife.
14. When the Respondent received notice that the check in the amount of \$300 was returned for non-sufficient funds (NSF), he contacted the bank and discovered that the cashier's check had been returned. The Respondent then voided the \$1,000 check that had been written and deposited \$300 from his personal funds to cover the check that had been returned as NSF.
15. When interviewed by the VSB investigator, the Respondent stated that the \$450 that was paid to the U.S. Bankruptcy Trustee for a quarterly payment in furtherance of a bankruptcy case of an office employee. The Respondent further stated that he withheld \$150 each month from the office employee's paycheck as required but that he did not deposit \$150 each month into his IOLTA Trust Account.
16. When asked to inspect his trust account records, the Respondent acknowledged that he did not maintain his trust account as required by Rule 1.15 of the Virginia Code of Professional Conduct. The Respondent was able to produce cash receipts and disbursement records, but was not able to produce subsidiary ledgers or evidence of period reconciliations. The Respondent stated that he performed reconciliations, but he did not maintain copies or other evidence of periodic reconciliation for his trust account. A review of the Respondent's trust account checkbook and bank statements by the VSB

Investigator further revealed that the Respondent did not maintain a running balance and that entries in the trust account were incomplete and not current.

17. Inspection of the trust account records further revealed that, on at least six occasions over the prior 12 months, the Respondent had written checks for personal expenses out of his trust account.

II. NATURE OF MISCONDUCT

Such conduct by Joseph Albert Christian Synan constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct as specified for each matter:

As to VSB Docket No. 15-060-100399 (Complainant: Don C. Snellings, Jr.)

Rule 1.3 (a) (b); Rule 1.4 (a)

As to VSB Docket No. 15-060-101824 (Complainant: Virginia State Bar)

Rule 1.15 (a) (b) (c) (d)

RULE 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.
- (b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

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 1.15 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:

- (1) promptly notify a client of the receipt of the client's funds, securities, or other properties;
- (2) identify and label securities and properties of a client, or those held by a lawyer as a fiduciary, promptly upon receipt;
- (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;
- (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer that such person is entitled to receive; and
- (5) not disburse funds or use property of a client or third party without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

(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.
- (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, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms and conditions, compliance with which is a predicate for this agreed disposition, and with which the Respondent must comply are as follows:

1. That within 30 days of the date that this Memorandum Order is forwarded to the Respondent, as provided by the Certificate of Service herein, the Respondent shall read Virginia Rule 1:15 and further shall read "*Lawyers and Other People's Money*", Fifth Edition, by Frank A. Thomas, III and Kathleen M. Uston, in full

and provide certification to the Virginia State Bar that he has complied with this requirement.

2. That within 90 days of the date that this Memorandum Order is forwarded to the Respondent as provided by the Certificate of Service herein, the Respondent shall take three (3) hours of MCLE-approved Continuing Legal Education Courses, all of which shall be in the area of Law Office Management. These three (3) hours of CLE credits shall not count toward the Respondent's annual MCLE requirement, and the Respondent shall not submit these hours to the MCLE Department of the Virginia State Bar or any other bar organization.
3. The above certifications shall be forwarded to Prescott L. Prince, Assistant Bar Counsel, at Virginia State Bar, 1111 E. Main Street, Suite 700 Richmond, VA 23219 no more than 30 days from the date on which this agreed disposition is entered by the Virginia State Bar.

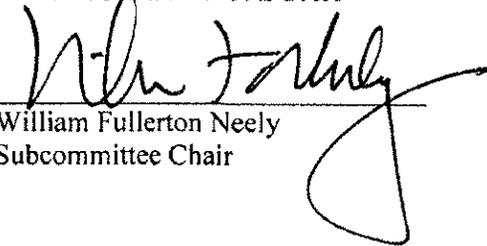
Upon satisfactory proof that such terms and conditions have been met, these matters shall be closed.

If, however, all the terms and conditions are not met by the deadlines imposed above, the Respondent agrees that the Disciplinary Board shall impose a six (6) month suspension of his license to practice law in the Commonwealth of Virginia pursuant to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-18.O. 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.

Respondent agrees that any proceeding to address compliance with terms under this Agreed Disposition will be heard by the Disciplinary Board.

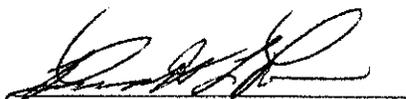
Pursuant to Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

SIXTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By: 
William Fullerton Neely
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on 1 July, 2015 a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to Joseph Albert Christian Synan, Respondent, at 101 Lafayette Boulevard, P.O. Box 8448, Fredericksburg, VA 22404-8448, Respondent's last address of record with the Virginia State Bar.



Prescott L. Prince
Assistant Bar Counsel