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VIRGINIA:

BEFORE THE SIXTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

MAR 5 2010

IN THE MATTER OF
TIMOTHY JAMES WALL

VSB CLERK'S OFFICE

VSB Docket No. 06-060-3006

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On January 12, 2010 a meeting in this matter was held before a duly convened Sixth District Subcommittee consisting of Michael Clower, Esquire, Kay Forrest, Lay Member, and James Insley, Esquire, presiding.

Pursuant to Part 6, Section IV, Paragraph 13-15.E. of the Rules of the Virginia Supreme Court, the Sixth District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, Timothy James Wall (hereinafter "the Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Complainant Michael Ondoveik, (hereinafter "the Complainant"), hired the Respondent in November of 2005 for representation regarding felony hit and run and alcohol related traffic offenses. He paid an advanced fixed fee of \$2500.
3. A court date was set for November 15, 2005. Prior to that date, the Complainant was contacted by the Respondent's office and informed that the case had been continued until January 26, 2006, and that the Complainant did not need to appear on November 15th.
4. Neither the Respondent nor his office staff contacted the General District Court

for Stafford County to arrange for the continuance. As the Court had no notice that the case was intended to be continued, when the Complainant failed to appear on November 15, 2005 due to the instruction from the Respondent that he did not need to appear, the Court issued a capias for the arrest of the Complainant. The Complainant was subsequently arrested on November 21, 2005. As a result of the intervention of the Respondent the Complainant was released on his own recognizance on the evening of his arrest.

5. The Complainant terminated the Representation by the Respondent on or about February 1, 2006, and requested a refund of the unearned fees.

6. On or about February 6, 2006, the Complainant was informed that his refund was being processed and should be forwarded to him within four to five business days. After an additional five weeks elapsed without receipt of the unearned fees, the Complainant filed a bar complaint which was received by the bar on March 16, 2006. A draft in the amount of \$1200 was issued to the Complainant on March 20, 2006.

II. NATURE OF MISCONDUCT

Such conduct by Timothy James Wall 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

- (c) A lawyer shall:

- (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 which such person is entitled to receive.

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).

RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

With respect to a nonlawyer 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 nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer[;]

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 will be a predicate for the disposition of a Public Reprimand with Terms of this complaint. The terms and conditions are:

1. On or before February 1, 2010, issue to the Complainant a sincere letter of apology referencing the error of the Respondent in failing to arrange for the continuance; the inconvenience, embarrassment and understandable distress of the Complainant at being arrested and taken to jail; and the delay in returning the unearned portion of the Complainant's advanced fees. A copy of the letter of apology shall be provided to Marian L. Beckett, Assistant Bar Counsel, the Virginia State Bar, Eighth and Main Building, 707 East Main Street, Suite 1500, Richmond, Virginia 22319. The letter of apology to the Complainant shall indicate that a copy of the letter is being provided to Assistant Bar Counsel.

2. Review the present practices and procedures in place in the Law Office of Timothy J. Wall to confirm that the failure to arrange a continuance will not occur in the future. In a letter dated on or before February 1, 2010 and directed to Marian L. Beckett, Assistant Bar Counsel, at the address given in the above paragraph, describe precisely what safeguards are in place to prevent a reoccurrence of the events described in this Agreed Disposition.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If the terms and conditions are not met by the specified dates, this subcommittee shall issue a Certification for Sanction Determination by the Disciplinary Board pursuant to Part Six, Section IV, Paragraph 13-15.G. of the Rules of Court.

Pursuant to Part Six, Section IV, Paragraph 13-9.E. of the Rules of Court, the Clerk of the Disciplinary System shall assess costs.

SIXTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By



James S. Insley, Esquire
Presiding Chair

CERTIFICATE OF SERVICE

I certify that on March 4, 2010, I mailed by Certified Mail, Return Receipt Requested, a true and correct copy of the Subcommittee Determination (Public Reprimand with Terms) to Timothy James Wall, Esquire, Respondent, at The Law Office of Timothy J. Wall, Suite 300, 150 Riverside Parkway, Fredericksburg, VA 22406, Respondent's last address of record with the Virginia State Bar.

Marian L. Beckett

Marian L. Beckett
Assistant Bar Counsel