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IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

MAR 21 2008

**VIRGINIA STATE BAR *EX REL*
FIFTH DISTRICT—SECTION I COMMITTEE,**

VSB CLERK'S OFFICE

Petitioner,

v.

**Case No. 2006-10928
[VSB Nos. 03-051-0361,
04- 051-0859, and 05-051-3855]**

ERNEST KENNETH WALL, ESQUIRE,

Respondent.

ORDER

This matter came before the Three-Judge Court empaneled on February 26, 2008, by designation of the Chief Justice of the Supreme Court of Virginia, pursuant to Section 54.1-3935 of the 1950 Code of Virginia, as amended. A written Agreed Disposition was thereafter presented by Seth M. Guggenheim, Senior Assistant Bar Counsel and by Michael L. Rigsby, Esquire, counsel for Ernest Kenneth Wall, via teleconference on March 19, 2008, to the Three-Judge Court, consisting of the Honorable Paul F. Sheridan and Alfred D. Swersky, retired Judges of the Seventeenth and Eighteenth Judicial Circuits, respectively, and the Honorable Margaret Poles Spencer, Judge of the Thirteenth Judicial Circuit and Chief Judge of the Three-Judge Court.

Having considered the Agreed Disposition, it is the decision of the Three-Judge Court that the Agreed Disposition be accepted, and said Court finds by clear and convincing evidence as follows:

1. At all times relevant hereto, Ernest Kenneth Wall, Esquire (hereinafter the Respondent or Mr. Wall), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. From 1997 to the present, the Respondent has owned two businesses. At the time of the complaint herein, one business was known as E. Kenneth Wall & Associates, Inc., a Virginia corporation that provided services from offices throughout the United States to individuals confronting tax controversies with local, state and federal income tax authorities. The other business, the Respondent's law firm, titled E. Kenneth Wall, PC, provided legal services to clients with tax problems and related legal problems. E. Kenneth Wall & Associates, Inc. has since changed its name to Wall & Associates to avoid possible confusion between it and Mr. Wall's law firm. A description of the services provided by Wall & Associates can be found at www.wallandassociates.biz.

VSB Docket Number 03-051-0361

3. In December of 2001, the Complainant, D.W., sought the advice of a tax attorney. He was given the name of E. Kenneth Wall by another attorney. D. W. located E. Kenneth Wall & Associates, Inc. on the internet. The website for E. Kenneth Wall & Associates at that time stated that Mr. Wall was an experienced attorney and listed a number of services he provided. On December 6, 2001, believing that he was employing an attorney, D. W. called the Respondent and, after a lengthy telephone conversation, asked the Respondent to assist him with several matters pending before the Internal Revenue Service involving him and his businesses. On December 20, 2001, D. W. went to the Respondent's office in Roanoke, Virginia and paid the Respondent \$5,000.00 in advance fees. He received a receipt for the fee from the Respondent's

office which included the language: “legal services, Kenneth Wall, Esq.”

4. Subsequently, E. Kenneth Wall & Associates presented D. W. with a contract for services to be performed. The contract was not acceptable to D. W. and he (D. W.) terminated the service of E. Kenneth Wall & Associates and demanded a return of the \$5,000.00 advance fee. Litigation ensued, with D. W. demanding a refund of what he believed to be an advance for legal services. E. Kenneth Wall & Associates counterclaimed, demanding additional fees for services rendered in an administrative representation, not an attorney-client relationship. D. W. prevailed in his civil claim; E. Kenneth Wall & Associates did not prevail in its counter-claim.

VSB Docket Number 04-051-0859

5. In 2001, the Complainant, L. D., received an unsolicited letter from the Respondent regarding a tax lien placed on his real estate property by the Internal Revenue Service. The letter was on the letterhead of E. Kenneth Wall & Associates, Inc., and under the firm name, stated “Masters in Tax Law.” The letter noted that the Respondent had a Masters Degree in Tax Law and more than twenty (20) years experience representing clients in disputes with the IRS. L. D. thereafter employed E. Kenneth Wall & Associates, believing that he was employing Mr. Wall in an attorney-client relationship. L. D. later terminated his representation with E. Kenneth Wall & Associates and complained to the Virginia State Bar about the timeliness and quality of service received. In response, Mr. Wall advised the bar that the services provided by E. Kenneth Wall & Associates were administrative in nature and did not involve an attorney-client relationship.

VSB Docket Number 05-051-3855

6. On November 21, 2003, the Complainant, W. J., received an unsolicited letter

from the Respondent, on the letterhead of the Atlanta, Georgia office of E. Kenneth Wall & Associates, Inc., regarding the tax lien placed on W. J.'s real estate property by the Internal Revenue Service. The letterhead on which the letter was written included the words "Masters of Tax Law" directly below the name of the firm. The body of the letter, signed by E. Kenneth Wall, stated, "I have over twenty years experience in representing clients in IRS disputes." After receiving the letter, W. J. called E. Kenneth Wall & Associates at its Atlanta office and subsequently employed E. Kenneth Wall & Associates to assist him with his tax problems.

7. W. J., an attorney himself, believed he was employing E. Kenneth Wall & Associates to provide him with legal representation, not simply tax representation. Mr. Wall, however, has advised the bar that E. Kenneth Wall & Associates provided tax representation, not legal representation, to W. J. and the distinction between the two types of service was explained to him.

THE THREE-JUDGE COURT finds by clear and convincing evidence that such conduct on the part of the Respondent, Ernest Kenneth Wall, Esquire, constitutes a violation of the following provisions of the Virginia Rules of Professional Conduct:

RULE 7.1 Communications 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 . . . misleading, . . . statement or claim. ***

UPON CONSIDERATION WHEREOF, the Three-Judge Court hereby ORDERS that the Respondent shall receive, and the Court hereby imposes, a **PUBLIC ADMONITION, WITH TERMS**, subject to the imposition of the sanction referred to below as an alternative disposition

of this matter should Respondent fail to comply with the Terms referred to herein. The Terms which shall be met in accordance with the deadlines set forth below are:

1. Within thirty (30) days following entry of this Order, the Respondent shall cause Wall & Associates, Inc., and all other business entities providing tax services which Respondent now or may hereafter own and/or control to include on the front page of the first page of all mailed solicitations, in a separate paragraph the statement "This is not a solicitation to provide legal services."

2. Within thirty (30) days following entry of this Order, the Respondent shall cause Wall & Associates, Inc., and all other business entities providing tax services which Respondent now or may hereafter own and/or control, to display on the front page of the first page of every contract for services, and on every page on which the client is to affix a signature on such contract, the statement "Not A Contract For Legal Services."

3. Within thirty (30) days following entry of this Order, or such time as reasonably may be required to effect this directive, the Respondent shall cause Wall & Associates, Inc., and all other business entities providing tax services which Respondent now or may hereafter own and/or control to revise the contents of its/their websites to make clear that clients who choose to retain such firm(s) to represent them are not retaining Respondent or Respondent's law firm to offer legal advice or to perform legal services.

4. Within forty-five (45) days following entry this Order, or such time as reasonably may be required to effect this directive, the Respondent shall provide Seth M. Guggenheim, Esquire, at 100 North Pitt Street, Suite 310, Alexandria, Virginia 22314, with samples of all correspondence and contracts, and a paper print-out of all website contents, as verification of

compliance with the terms hereof.

5. Should the Respondent fail to comply with the terms set forth in the immediately preceding Paragraphs 1 through 4, inclusive, he shall receive a thirty (30) day suspension of his license to practice law in the Commonwealth of Virginia; and it is further

ORDERED that pursuant to Part Six, Section IV, Paragraph 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent; and it is further

ORDERED that four (4) copies of this Order be certified by the Clerk of the Circuit Court of Fairfax County, Virginia, and be thereafter mailed by said Clerk to the Clerk of the Disciplinary System of the Virginia State Bar at 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800, for further service upon the Respondent and Bar Counsel consistent with the rules and procedures governing the Virginia State Bar Disciplinary System.

Pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia, the Court dispenses with any requirement that this Order be endorsed by counsel of record for the parties.

ENTERED this 19 day of March, 2008.

FOR THE COURT:



MARGARET POLES SPENCER
Circuit Judge and Chief Judge of Three-Judge Court