

VIRGINIA:

BEFORE THE FIFTH DISTRICT SECTION I  
SUBCOMMITTEE OF THE VIRGINIA STATE BAR

IN THE MATTERS OF  
Michael Alan Ward

VSB Docket No. 12-051-089815  
VSB Docket No. 12-051-089988  
VSB Docket No. 12-051-090541  
VSB Docket No. 12-051-090137

JAN 31 2013

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On the 13<sup>th</sup> day of December, 2012, a meeting in this matter was held before a duly convened subcommittee of the Fifth District Committee, Section I, consisting of Brendan D. Harold, Esquire, Evelyn H. Sandground, Lay Member, and John E. Byrnes, Esquire, presiding.

Pursuant to Part 6, § IV, ¶ 13-15.B.4.c of the *Rules of Virginia Supreme Court*, that subcommittee of the Fifth District Committee, Section I, of the Virginia State Bar hereby serves upon the Respondent the following Agreed Disposition, a Public Reprimand with Terms.

**I. FACTS**

1. At all times relevant hereto, Michael Alan Ward (hereinafter the "Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.

**As to VSB Docket No. 12-051-089815**

2. On or around October 28, 2011, a complaint was filed against Respondent by the grandmother of his client (hereinafter the "Complainant") who was involved in a visitation, custody and support matter. The Complainant had paid Respondent's fee on behalf of her grandson.

3. Under cover of a letter dated November 1, 2011, a copy of this complaint was sent to Respondent. This letter informed Respondent that his response to the allegations set forth therein was required within twenty-one (21) days of the date of the letter pursuant to his obligations under Rule of Professional Conduct 8.1(c).

4. Despite his obligations under the Rules of Professional Conduct to do so, Respondent failed to provide any response to the complaint.

5. Respondent did submit to an interview with a Virginia State Bar Investigator at which time he provided information and documents concerning the underlying complaint.

**As to VSB Docket No. 12-051-089988**

6. On or around November 14, 2011, a complaint was filed against Respondent by Alana C. Williams, Esquire, (hereinafter "Complainant Williams") who had been retained by Respondent's client to complete her divorce. By letter dated August 19, 2011, Complainant Williams wrote to Respondent to advise that she had been retained and she requested a copy of the client's file together with an accounting of fees. When Respondent did not respond, Complainant Williams sent an email communication to Respondent dated September 9, 2011, reiterating her request for the client's file and an accounting of fees. Complainant Williams also requested that Respondent sign and return to her an Order of Substitution. The Order sent to Respondent did not contain the client's signature. Respondent did not respond.

7. On October 17, 2011, Complainant Williams filed a *Motion for Entry of Order Substituting Counsel and to Order Plaintiff's Former Counsel to Produce Plaintiff's*

*File and Billing Statements*, setting same for hearing on November 4, 2011. On November 2, 2011, Respondent signed and returned the Order of Substitution to Complainant Williams, who responded by letter dated November 3, 2011, wherein she noted that the matter would remain on the court's docket for the following day unless and until Respondent provided a copy of the client's file as well as all billing records.

8. Respondent failed to provide Complainant Williams with the client's file until March 22, 2012, stating that he had instructed his assistant to send the file over the holidays and had erroneously assumed that she had done so. Respondent admitted that he did not follow up to ensure that the file had been sent.

9. Under cover of a letter dated November 1, 2011, a copy of this complaint was sent to Respondent. This letter informed Respondent that his response to the allegations set forth therein was required within twenty-one (21) days of the date of the letter pursuant to his obligations under Rule of Professional Conduct 8.1(c).

10. Despite his obligations under the Rules of Professional Conduct to do so, Respondent failed to provide any response to the complaint.

11. Respondent did submit to an interview with a Virginia State Bar Investigator at which time he provided information and documents concerning the underlying complaint.

12. During this interview, Respondent stated that at no time did his client request the return of her file or request that the file be turned over to Complainant Williams. In addition, Respondent noted that he never received an Order of Substitution bearing his client's signature.

13. At the time Respondent was first contacted by Complainant the case had been resolved by the parties through settlement, except to finalize the divorce. Subsequent to Complainant being retained and being provided with the client's file no court action has been taken with regard to client's case.

**As to VSB Docket No. 12-051-090541**

14. On or around January 11, 2012, a complaint was filed against Respondent and, under cover of a letter dated January 23, 2012, a copy of this complaint was sent to him. This letter informed Respondent that his response to the allegations set forth therein was required within twenty-one (21) days of the date of the letter pursuant to his obligations under Rule of Professional Conduct 8.1(c).

15. Despite his obligations under the Rules of Professional Conduct to do so, Respondent failed to provide any response to the complaint.

16. Respondent did submit to an interview with a Virginia State Bar Investigator at which time he provided information and documents concerning the underlying complaint.

**As to VSB Docket No. 12-051-090137**

17. On November 29, 2011, the client filed a complaint against Respondent and under cover of a letter dated December 7, 2011, a copy of this complaint was sent to him. This letter informed Respondent that his response to the allegations set forth therein was required within twenty-one (21) days of the date of the letter pursuant to his obligations under Rule of Professional Conduct 8.1(c).

18. Despite his obligations under the Rules of Professional Conduct to do so, Respondent failed to provide any response to the complaint.

19. Respondent did submit to an interview with a Virginia State Bar Investigator at which time he provided information and documents concerning the underlying complaint.

## **II. NATURE OF MISCONDUCT**

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **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.

### **RULE 8.1 Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6[.]

### **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 by the deadline set forth below shall be a predicate for the disposition of this complaint by imposition of a Public Reprimand with Terms. The terms and conditions which shall be met by the dates certain specified are:

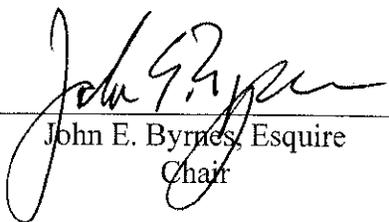
1. The Respondent shall timely provide a response to all future complaints filed against him and which are forwarded to him under cover of a letter informing him of his obligation to respond within twenty-one (21) under Rule of Professional Conduct 8.1(c). This Term shall be in effect for a period of two (2) years from the date of issuance of this Determination.
2. Within twelve (12) months of the issuance of this Determination, Respondent shall attend a **live** law office practice management Continuing Legal Education class for which he will receive **no credit** towards his annual Continuing Legal Education requirement.

If the above terms are not met by the deadlines specified above, then Respondent agrees that the District Committee shall impose a suspension of his license to practice law in the Commonwealth of Virginia for a period of six (6) months pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia. 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 pursuant to ¶ 13-9.E of the Rules of the Supreme Court of Virginia.

Upon satisfactory proof that the above noted terms and conditions have been met, a Private Reprimand shall be imposed. If, however, the Respondent shall fail to comply with the terms and conditions set forth above, then this matter shall be certified to the Disciplinary Board for Sanction Determination upon an agreed stipulation of facts and misconduct as to the facts and misconduct as set forth herein pursuant to Part Six, Section IV, Paragraph 13-15.G of the *Rules of the Supreme Court*.

Pursuant to Part Six, Section IV, Paragraph 13.9.E of the *Rules of the Supreme Court*, the Clerk of the Disciplinary System shall assess costs

FIFTH DISTRICT SECTION I SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By  \_\_\_\_\_  
John E. Byrnes, Esquire  
Chair

(Certificate of Service on Page 8)

CERTIFICATE OF SERVICE

I certify that I have on this 28<sup>th</sup> day of January, 2013, mailed a true and correct copy of the Subcommittee Determination (Private Reprimand with Terms) by CERTIFIED MAIL to Respondent, Michael Alan Ward, Esquire, *pro se*, Suite 301, 4085 Chain Bridge Road, Fairfax, VA, 22030, his last address of record with the Virginia State Bar.



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Kathleen M. Uston  
Assistant Bar Counsel