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VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY MAY 4 2009

VIRGINIA STATE BAR *EX REL*  
SEVENTH DISTRICT COMMITTEE,

VSB CLERK'S OFFICE

Complainant,

v.

Case No. CL09-42  
VSB Docket Nos. 07-070-1360

JOHN W. WINE, ESQUIRE

Respondent.

ORDER OF PUBLIC REPRIMAND

This matter came before the Three-Judge Court telephonically empanelled on April 21, 2009, by designation of the Chief Justice of the Supreme Court of Virginia, pursuant to § 54.1-3935 of the 1950 Code of Virginia, as amended. A fully endorsed Agreed Disposition, dated the 10<sup>th</sup> day of April, 2009, was tendered by Alfred L. Carr, Assistant Bar Counsel, Respondent John W. Wine, by and through his counsel, John E. McIntosh, Jr., Esq., and was considered by the Three-Judge Court, consisting of the Honorable Alfred D. Swersky, Retired Judge of the Eighteenth Judicial Circuit, the Honorable Ann Hunter Simpson, Retired Judge of the Fifteenth Judicial Circuit and by the Honorable Marcus D. Williams, Judge of the Nineteenth Judicial Circuit and Chief Judge of the Three-Judge Court. The hearing was transcribed by Chandler and Halasz, P.O. Box 9349, Richmond, VA 23227, 804-730-1222.

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, John W. Wine, Esquire, (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. The parents of Lauren Vincent (hereinafter the Complainant) died intestate, living separate and apart, in 2003 within a ten (10) days of each other. David Ralph Vincent died on January 28, 2003, and Debra Diane Vincent died on February 7, 2003. David Ralph Vincent was survived by his wife, Debra Diane Vincent, and his six children, three (3) from the first marriage and three (3) from his second marriage. The three (3) from the first marriage were all adults, and two of children from the second marriage were adults. The seventeen-year-old from the second marriage was appointed a Guardian *ad litem*, Janet Ours, Esq.

3. In July 2003, the Trustee under the terms of the Deed of Trust, after Notice, sold the real property at foreclosure because of the monthly payments on the first and second mortgages were in arrears. In February of 2003, the Guardian *ad litem* for Amanda D. Vincent filed a Motion to Appoint an administrator in CH03-47, and no order was entered. On October 30, 2004, the Substitute Trustee conducting the foreclosure of the real property filed a petition to pay the balance of the monies from the foreclosure into the Court (CH04-236). In May of 2005, the Court directed that the proceeds from the foreclosure be paid to the General Receiver of the Fauquier Circuit Court. The Court obtained jurisdiction of the Estate of Debra Diane Vincent because she died intestate and as David Ralph Vincent died first, the property passed to Debra Diane Vincent by operation of law.

4. The Respondent in June of 2004 had entered into an attorney-client relationship with Ralph Kyle Vincent, age 22, with regard to various criminal charges pending in Fauquier

County, Virginia. During his representation of Kyle Vincent, Respondent agreed to gather information concerning the parents' liabilities and to inquire into the possibility of some financial benefit for the members of the second family of David and Debra Vincent.

5. The Respondent filed the appropriate pleadings with the Fauquier County Circuit Court.

6. In November 2005, the Court appointed the Complainant as Fiduciary of the Estate of David Ralph Vincent, the father, who died first.

7. In December 2005, the Court appointed the Complainant as Fiduciary of the Estate of Debra Dianne Vincent, the mother.

8. On January 24, 2006, the Fauquier County Circuit Court entered an order directing the General Receiver to pay the Complainant, as the Administrator of the Debra Dianne Vincent Estate, the foreclosure proceeds paid to the Court in May of 2005, plus interest, for a total amount of \$80,057.54.

9. On January 31, 2006, the Complainant and Amanda Vincent signed the handwritten fee agreement. On February 2, 2006, Kyle Vincent signed the same handwritten fee agreement.

10. The Respondent's fee agreement set forth a fee of thirty percent (30%) of the funds obtained for the Estate of David Ralph Vincent and/or Debra Dianne Vincent, these funds being either individual or estate property.

11. The Respondent did not adequately explain his fee agreement to Lauren and Amanda Vincent.

12. The fee agreement did not adequately explain the method of calculation of the fee.

13. The fee agreement did not adequately explain whether or what expenses would be borne by the Kyle, Lauren, and Amanda Vincent or the estate as costs above the thirty percent (30%) fee.

**THE THREE-JUDGE COURT** finds by clear and convincing evidence that such conduct on the part of the Respondent, John W. Wine, Esq., constitutes a violation of the following provisions of the Rules of Professional Conduct:

**RULE 1.5 Fees**

- (b) The lawyer's fee shall be adequately explained to the client. When the lawyer has not regularly represented the client, the amount, basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

**UPON CONSIDERATION WHEREOF**, the Three-Judge Court hereby **ORDERS** as follows:

1. Subject to the provisions set forth below, the Respondent shall receive a **Public Reprimand** effective the date of this order.
2. Pursuant to Part 6, 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 County of Fauquier, Virginia, and be thereafter mailed by said Clerk, to Barbara Sayers Lanier, 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, John W. Wine, P.O. Box 133, Marshall VA 20116-0133, at his address of record with the Virginia State Bar, by regular mail to

Respondent's Counsel, John E. McIntosh, Jr., Esq., 4118 Leonard Drive, Fairfax, VA 22030 and hand-delivered to Alfred L. Carr, Assistant Bar Counsel, 707 E. Main Street, Suite 1500, Richmond, VA 23219 consistent with the rules and procedures governing the Virginia State Bar Disciplinary System

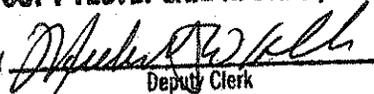
ENTERED this 22 day of April, 2009.



Marcus D. Williams.  
Chief Judge of Three-Judge Court

Received and Admitted to Record this 30th day of April 2009

**A COPY TESTE: GAIL H. BARB, CLERK**

BY   
Deputy Clerk

**FAUQUIER COUNTY CIRCUIT COURT, VA**