

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF KAREN PATRICIA WOOLLEY
VSB DOCKET NO. 08-070-075359

ORDER OF SUSPENSION

This matter came on to be heard on February 4, 2011, by the Disciplinary Board of the Virginia State Bar by teleconference upon an Agreed Disposition between the parties, which was presented to a panel of the Board consisting of Steven A. Wannall (lay member), Randall G. Johnson, Jr., Michael S. Mulkey, David R. Schultz and William E. Glover, Chair, presiding.

Alfred L. Carr, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and Respondent, Karen Patricia Woolley, appeared *pro se*.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition.

Having considered the Agreed Disposition, it is the decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

I. FINDINGS OF FACT

1. At all relevant times Respondent, Karen Patricia Woolley, has a been duly licensed attorney authorized to practice law in Virginia.

2. In May of 2005, Complainant hired Respondent to represent his legal interests in a divorce.
3. In May of 2005, Complainant paid Respondent \$5,000.00 in advance legal fees.
4. Respondent did not deposit the \$5,000.00 advance legal fee into an attorney trust account.
5. Respondent deposited the \$5,000 advanced legal fee into a non-IOLTA before she had earned all of it.
6. In March of 2006, Complainant paid Respondent \$3,000.00 in advance legal fees.
7. Respondent did not deposit the \$3,000.00 advance legal fee into an attorney trust account.
8. Respondent deposited the \$3,000 advanced legal fee into a non-IOLTA before she had earned all of it.
9. Respondent's adult son loaned Complainant money to pay his arrearages in spousal support.
10. Respondent did not perform the required record keeping and reconciliations of her IOLTA.
11. After Complainant filed his bar complaint, Respondent informed opposing counsel that Complainant had been deceitful in regards to his financial affairs and asked opposing counsel if he wanted to inform the Court.

II. MISCONDUCT

The Certification charged violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.6 Confidentiality of Information

- (a) A lawyer shall not reveal information protected by the attorney-client privilege under applicable law or other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b) and (c).

RULE 1.8 Conflict of Interest: Prohibited Transactions

- (e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:
- (1) a lawyer may advance court costs and expenses of litigation, provided the client remains ultimately liable for such costs and expenses ; and
 - (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

RULE 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:
- (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
 - (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.
- (e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be

maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must produce the records and information required by this Rule.

- (1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:
 - (i) a cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;
 - (ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;
 - (iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise early identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;
 - (iv) reconciliations and supporting record required under this Rule;
 - (v) the records required under this subsection shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

- (2) in the case of funds or property held by a lawyer or law firm as a fiduciary subject to Rule 1.15(d), the required books and records include:
 - (i) an annual summary of all receipts and disbursements and changes in assets comparable to an accounting that would be required of a court supervised fiduciary in the same or similar capacity. Such annual summary shall be in sufficient detail as to allow a reasonable person to determine whether the lawyer is properly discharging the obligations of the fiduciary relationship;
 - (ii) original source documents sufficient to substantiate and, when necessary, to explain the annual summary required under subsection (i), above
 - (iii) the records required under this subsection shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.

- (f) Required Escrow Accounting Procedures. The following minimum escrow accounting procedures are applicable to all escrow accounts subject to Rule 1.15(a) and (c) by lawyers practicing in Virginia.
 - (2) Deposits. All receipts of escrow money shall be deposited intact and a retained duplicate deposit slip or other such record shall be sufficiently detailed to show the identity of each item;

 - (4) Periodic trial balance. A regular periodic trial balance of the subsidiary ledger shall be made at least quarter annually, within 30 days after the close of the period and shall show the escrow account balance of the client or other person at the end of each period.
 - (i) The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of monies received in escrow for the period and deducting the total of escrow monies disbursed for the period; and
 - (ii) The trial balance shall identify the preparer and be approved by the lawyer or one of the lawyers in the

law firm.

- (5) Reconciliations.
 - (i) A monthly reconciliation shall be made at month end of the cash balance derived from the cash receipts journal and cash disbursements journal total, the escrow account checkbook balance, and the escrow account bank statement balance;
 - (ii) A periodic reconciliation shall be made at least quarter annually, within 30 days after the close of the period, reconciling cash balances to the subsidiary ledger trial balance;
 - (iii) Reconciliations shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.
- (6) Receipts and disbursements explained. The purpose of all receipts and disbursements of escrow funds reported in the escrow journals and subsidiary ledgers shall be fully explained and supported by adequate records.

III. DISPOSITION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** and **IMPOSES** a “**thirty (30) day suspension, effective February 4, 2011.**”

It is further ORDERED that, Respondent must comply with the requirements of Part Six, § IV, ¶ 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of her license to practice law in the Commonwealth of Virginia, to all clients for whom she is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in her care in conformity with the wishes of her client. Respondent shall give such notice within 14 days of the effective

date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of suspension, she shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

Pursuant to Part 6, Section IV, Paragraph 13-9 E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to respondent at her address of record with the Virginia State Bar, being 146 Wooster Road, Southern Pines, NC 28387, by certified mail, return receipt requested, and hand delivered to Alfred L. Carr, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

The proceeding was transcribed by Terry S. Griffith of Chandler & Halasz Court Reporters, P.O. Box 9349, Richmond, VA 23227, telephone number 804-730-1222.

ENTERED this 4th Day of February 2011

A handwritten signature in black ink, appearing to read 'WEG', is written over a horizontal line.

William E. Glover, Chair
Virginia State Bar Disciplinary Board