

**VIRGINIA:**

**BEFORE THE FOURTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF  
Ivan Yacub**

**VS B Docket No. 14-041-097049**

**SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)**

On October 02, 2014, a meeting was held in this matter before a duly convened Fourth District Subcommittee consisting of Paul H. Melnick, member, Edward M. Johnson, lay member, and Jonathan S. Gelber, chair presiding. During the meeting, the Subcommittee voted to approve an agreed disposition for a PUBLIC Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4. of the Rules of the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Renu Mago Brennan, Assistant Bar Counsel, and Ivan Yacub, Respondent, and Juliane C. Miller, Esquire, counsel for Respondent.

WHEREFORE, the Fourth District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following PUBLIC Reprimand with Terms:

**I. FINDINGS OF FACT**

1. Respondent Ivan Yacub (Respondent) was licensed to practice law in the Commonwealth of Virginia on April 7, 2009.
2. Respondent practices primarily in the area of immigration law.
3. Respondent's law firm is primarily a cash-based business. The majority of funds received by Respondent from clients are primarily by cash, credit card, electronic transfer, or money order.
4. At all times relevant to this investigation, Respondent maintained his trust account at Wells Fargo Bank.

5. On September 9, 2013, Respondent electronically debited \$380.00 in funds from his trust account to pay to the United States Citizenship Service on behalf of a client.
6. Respondent's debit resulted in an overdraft of \$54.35.
7. Wells Fargo assessed a \$35.00 overdraft fee.
8. Wells Fargo issued a notice of nonsufficient funds to the Virginia State Bar, and the bar opened a complaint against Respondent and demanded an answer. Respondent did not respond in writing. At some point after receiving the complaint, Respondent contacted the bar and advised that the overdraft occurred because he had changed his credit card service provider. Respondent, however, subsequently learned from his credit card service provider that this was not the reason for the overdraft, and he so advised the bar's investigator during the bar's investigation.
9. As part of the bar's investigation of the complaint, the bar subpoenaed Respondent's trust account records for the years 2012 and 2013.
10. The bar's investigator reviewed Respondent's trust and operating account records for the time period of January 1, 2012 through December 31, 2013. The bar's investigator also met with Respondent at his office on at least three separate occasions.
11. Respondent was only able to provide the bar with bank statements and cash received receipts. Respondent did not maintain the required cash receipts or disbursements journals for his trust account including entries for receipts, disbursements, and transfers, and also including, an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.
12. Respondent did not maintain subsidiary ledgers containing separate entries for each client for whom money was received in trust and which clearly identified (i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed, or transferred, and (ii) any unexpended balance.
13. Respondent thus did not keep the necessary trust account records.
14. As Respondent did not maintain the necessary journals, records, and ledgers, Respondent did not perform the necessary monthly reconciliation of the cash balance derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance, and the trust account bank statement balance.
15. Respondent did not perform, at least quarterly, a reconciliation reflecting the trust account balance for each client.

16. Respondent did not perform the necessary quarterly reconciliations that reconcile the cash balance from the trust account balance for each client and the subsidiary ledger balance.
17. In December 2013, Respondent hired a bookkeeper prior to the bar's investigator's first visit to his office. The bar's investigator also met with this bookkeeper as part of the investigation.
18. The bookkeeper prepared reconciliations of Respondent's trust account for the time period of January 1, 2012 to November 30, 2013.
19. According to Respondent's bookkeeper, and as conceded by Respondent, for the two years reviewed by the Bar, 2012 and 2013, Respondent deposited the majority of funds received from clients, whether by cash, credit card, electronic transfer, money order, or occasionally by check, in his operating account, not his trust account.
20. Respondent deposited these payments from clients in bulk in his operating account. Respondent did not identify on deposit slips the clients with whom the deposits were associated, or the amounts associated with the respective clients. Accordingly, Respondent could not identify client funds received and disbursed.
21. After depositing funds received from clients in his operating account, according to Respondent's bookkeeper, and as conceded by Respondent, Respondent transferred the portion of the fees which had been paid by credit card and which were to be used as filing fees to his trust account.
22. Rule 1.15 requires that all funds received by the lawyer for future litigation expenses be deposited in the lawyer's trust account, not the operating account.
23. Respondent contends that the bulk of the money in his operating account was earned fees and was thus his money. Respondent, however, concedes that, in addition to the filing fees which should have been deposited into trust, he had not earned all the money he deposited in his operating account.
24. Respondent charged flat fees which he deposited in his operating account after he had performed some, but not all, legal services required for the representation. Respondent maintained that these flat fees were earned as of the date he deposited them in his operating account. Flat fees, however, constitute advanced legal fees which remain the client's property until actually earned, and as such must be placed in trust until the entire representation is complete unless the fee agreement specifies otherwise. The fee agreement may provide for certain portions of the flat fee to be earned upon completion of benchmarks which allow an attorney to draw down the flat fee in stages. Respondent's fee agreements did not provide for the drawing down of the flat fee prior to the conclusion of the representation.

25. Moreover, Respondent did not maintain sufficient documentation to identify whether the fees he deposited in his operating account were earned at the time the funds were deposited in his operating account.
26. Respondent has implemented and is implementing measures to ensure that he complies with all provisions of Rule 1.15 of the Rules of Professional Conduct.

## II. NATURE OF MISCONDUCT

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

### **RULE 1.15 Safekeeping Property**

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(b) Specific Duties. A lawyer shall:

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) Reconciliations.

(i) At least quarterly a reconciliation shall be made that reflects the trust account balance for each client, person or other entity.

(ii) A monthly reconciliation shall be made of the cash balance that is derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance.

(iii) At least quarterly, a reconciliation shall be made that reconciles the cash balance from (d)(3)(ii) above and the subsidiary ledger balance from (d)(3)(i).

(iv) Reconciliations must be approved by a lawyer in the law firm.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

### **III. PUBLIC REPRIMAND WITH TERMS**

Accordingly, having approved the agreed disposition, it is the decision of the

Subcommittee to impose a PUBLIC Reprimand with Terms. The terms are:

1. For a period of three (3) years following the date of service of the Public Reprimand with Terms, the Respondent shall not engage in any conduct that violates Virginia Rule of Professional Conduct 1.15 and all subparts, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which the Respondent may be admitted to practice law. The terms contained in this paragraph shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against the Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated any provision of Rule 1.15 of the Rules of Professional Conduct, provided, however, that the conduct upon

which such finding was based occurred within the three-year period following the date of service of the Public Reprimand with Terms, and provided, further, that such ruling has become final.

2. On or before December 1, 2015, the Respondent shall complete six (6) hours of continuing legal education credits by attending the following courses approved by the Virginia State Bar in the subject matter of ethics and/or trust account:
  1. Trying to Stay on Top of it All – 9/30/14- Live (3.0)
  2. Consequences of Lawyer Misconduct – 10/30/14 – Live (2.0)
  3. Costs of Poor Professional Judgment – 10/24/13 – Live (2.0)
  4. Ethically Handling the Money: A Trust Accounting Primer - visible through 12/31/14 (1.0)

The Respondent's Continuing Legal Education attendance obligation set forth in this paragraph shall not be applied toward his Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which the Respondent may be licensed to practice law. The Respondent shall certify his compliance with the terms set forth in this paragraph by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance form (Form 2) to Bar Counsel, promptly following his attendance of such CLE program(s).

3. Respondent acknowledges that it is his responsibility to ensure his and his firm's compliance with Rule 1.15. Respondent shall ensure that his trust account and recordkeeping procedures are in full compliance with Rule 1.15, including but not limited to depositing unearned fees in his trust account, and ensuring that his deposit slips, whatever the method of payment, comply with Rule 1.15. Respondent shall maintain the required check receipts and disbursements journals and subsidiary ledgers. Respondent shall ensure, certify, and provide proof of compliance that his trust accounting practices, including but not limited to record keeping and reconciliation methods, are in compliance with Rule 1.15. Respondent shall certify compliance to Bar Counsel as set forth in this paragraph on or before January 1, 2015.
4. For a period of three (3) years following completion of the CPA's audits as set forth herein and as detailed at Paragraphs 5-11 below, the Respondent hereby authorizes a Virginia State Bar Investigator to conduct unannounced personal inspections of his trust account books, records, and bank records to ensure his compliance with all of the provisions of Rule 1.15 of the Rules of Professional Conduct and shall fully cooperate with the Virginia State Bar Investigator.
5. Within thirty (30) days of the service of the Public Reprimand with Terms, the Respondent shall engage the services of a CPA (Certified Public Accountant) (a) who will certify familiarity with the requirements of Rule 1.15 of the Rules of Professional Conduct, and (b) who has been pre-approved by Bar Counsel to review Respondent's attorney trust account record-keeping, accounting, and reconciliation methods and procedures to ensure compliance with Rule 1.15 of the Rules of Professional

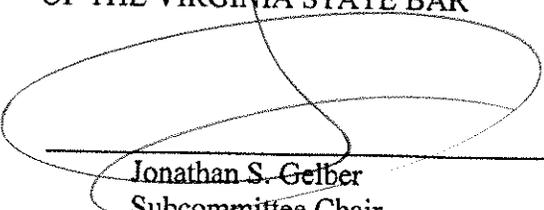
Conduct. Respondent shall provide the CPA with a copy of the Public Reprimand with Terms at the outset of his engagement of the CPA.

6. Within sixty (60) days of the service of the Public Reprimand with Terms, the CPA shall review Respondent's attorney trust account record-keeping, accounting, and reconciliation methods and procedures to ensure compliance with Rule 1.15 of the Rules of Professional Conduct.
7. Within sixty (60) days of the service of the Public Reprimand with Terms, the CPA shall, depending on his/her findings, either (a) certify in writing to the Respondent and Bar Counsel that Respondent is in compliance with Rule 1.15, or, (b) notify Respondent and Bar Counsel, in writing, of the measures Respondent must take to bring himself into compliance with Rule 1.15.
8. The Respondent shall be obligated to pay when due the CPA's fees and costs for services, and Respondent shall be obligated to provide to the Bar information regarding the CPA's investigation, assessment, and review of this matter.
9. In the event the CPA determines the Respondent is NOT in compliance with Rule 1.15, Respondent shall have forty-five (45) days following the date the CPA issues a written statement of the measures Respondent must take to comply with Rule 1.15 within which to bring himself into compliance. The CPA shall then be granted access to Respondent's office, books, and records, immediately following the passage of the forty-five (45) day period, to determine whether Respondent has brought himself into compliance as required. The CPA shall promptly thereafter certify in writing to Bar Counsel and to the Respondent either that the Respondent has brought himself into compliance with Rule 1.15 within the forty-five (45) day period, or that he has failed to do so. Respondent's failure to bring himself into compliance with Rule 1.15 as of the conclusion of the forty-five (45) day period shall be considered a violation of the terms set forth herein.
10. Unless an extension is granted by Bar Counsel for good cause to accommodate the CPA's schedule, the terms specified in paragraphs 5, 6, 7, 8, and 9 shall be completed no later than January 1, 2015.
11. On or about January 1, 2015; April 1, 2015; July 1, 2015; October 1, 2015; January 1, 2016; June 1, 2016; January 1, 2017; and June 1, 2017, the CPA engaged by Respondent pursuant to paragraph 5 shall reassess Respondent's trust account record-keeping, accounting, and reconciliation methods and procedures to ensure continued compliance with Rule 1.15 of the Rules of Professional Conduct. Within five (5) days of the review, the CPA shall certify in writing to Bar Counsel either that (1) Respondent is in compliance with Rule 1.15 or (2) that Respondent is not in compliance with Rule 1.15, and the CPA shall identify with specificity the areas of non-compliance. In the event the CPA determines that Respondent has NOT remained in compliance with this Rule, such non-compliance will be considered a violation of the terms set forth herein.

If the terms are not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F and G of the Rules of the Supreme Court of Virginia, the alternative disposition is a Certification for Sanction Determination. 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 Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

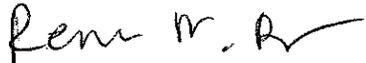
FOURTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR



Jonathan S. Gelber  
Subcommittee Chair

**CERTIFICATE OF MAILING**

I certify that on October 7, 2014, a true and complete copy of the Subcommittee Determination (PUBLIC Reprimand With Terms) was sent by certified mail, return receipt requested, to Ivan Yacub, Respondent, at Yacub Law Office, #201, 307 East Annandale Road, Falls Church, VA 22042, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Juliane C. Miller, counsel for Respondent, at Hudgins Law Firm, Suite 400, 515 King Street, Alexandria, VA 22314.



Renu Mago Brennan  
Assistant Bar Counsel