

**Disciplinary Actions**

The following is a list of attorneys who have been publicly disciplined.  
The orders have been edited. Administrative language has been removed to make the opinions more readable.

<b>Respondent's Name</b>	<b>Address of Record (City/County)</b>	<b>Action</b>	<b>Effective Date</b>	<b>Page</b>
<b>Supreme Court</b>				
Mercer Theodore Kissinger, Jr.	Norfolk	Reinstatement Denied	October 1, 1999	16
<b>Disciplinary Board</b>				
Jerome A. Coyle, III	Hampton	Suspended with terms	October 15, 1999	19
William Gething Dade	Fredericksburg	Public reprimand	October 27, 1999	20
Luther Cornelius Edmonds	Virginia Beach	Interim suspension	November 30, 1999	21
Sherman William Everloff, Jr.	Warrenton	Revocation	December 17, 1999	
Paul M. Lipkin	Norfolk	3 year suspension	November 19, 1999	21
Stephen Clark Maguigan	Bayse	2 year, 6 month suspension	July 22, 1999	23
Ava Maureen Sawyer	Reston	Revocation	September 24, 1999	24
Carroll Eugene Smith	Fredericksburg	Public reprimand	October 27, 1999	26
<b>District Committee</b>				
Michael Dana Eberhardt	Suffolk	Public reprimand	November 10, 1999	27
Douglas Fredericks	Norfolk	Public reprimand with terms	October 12, 1999	28

**Surrenders with Disciplinary Charges Pending**

The following is a list of attorneys who have surrendered their licenses with disciplinary charges pending.

<b>Respondent's Name</b>	<b>Address of Record (City/County)</b>	<b>Jurisdiction</b>	<b>Effective Date</b>
Thomas Eldridge Byrum	Chesapeake	Disciplinary Board	December 6, 1999
William Gething Dade	Fredericksburg	Disciplinary Board	December 17, 1999

**Supreme Court**

IN THE SUPREME COURT OF VIRGINIA  
HELD AT THE SUPREME COURT BUILDING  
IN THE CITY OF RICHMOND  
(FRIDAY, OCTOBER 1, 1999)

ordered that the petition for reinstatement be and it hereby is denied.

A Copy  
Teste:  
David B. Beach, Clerk



BEFORE THE VIRGINIA STATE BAR  
DISCIPLINARY BOARD

In the Matter of  
**M.T. KISSINGER, JR.**  
VSB Docket No. 98-000-1499

ORDER OF RECOMMENDATION

This matter came on for hearing on December 18, 1998 upon the Petition for Reinstatement of M.T. Kissinger, Jr. to practice law in the Commonwealth. A hearing was held before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of

In the Matter of  
**MERCER THEODORE KISSINGER, JR.**

On December 24, 1997 came Mercer Theodore Kissinger, Jr. and filed a petition for reinstatement of his license to practice law in this Commonwealth.

Upon request of this Court, the Virginia State Bar Disciplinary Board held a hearing on the matter and has returned to the Court its recommendation that the license of Mercer Theodore Kissinger, Jr., not be reinstated.

The Court having considered the record of the hearing, the recommendation of the said Disciplinary Board, the petitioner's objections to order of recommendation and the Virginia State Bar's response to objections, it is

Donna A. DeCorleto, John A. Dezio, Karen A Gould, Deborah A.J. Wilson and Virginia W. Powell, chair.

M.T. Kissinger, Jr. appeared in person and was represented by counsel, Paul E. Turner, Jr. Richard C. Vorhis, Assistant Bar Counsel, appeared for the Virginia State Bar.

Prior to the Board Hearing, the Virginia State Bar issued a press release to various media companies (print, broadcast and radio) announcing the pendency of Mr. Kissinger's application for reinstatement. The Board received letters in support of Mr. Kissinger's reinstatement and letters in opposition to same. Mr. Kissinger presented three witnesses. The Virginia State Bar presented no evidence from witnesses.

We reiterate that reinstatement proceedings are our most difficult assignments. The factors set out in the Matter of Alfred Lee Hiss in 1984 are helpful. They are:

- (1) The severity of the petitioner's misconduct including, but not limited to, the nature and circumstances of the misconduct.
- (2) The petitioner's character, maturity and experience at the time of his disbarment.
- (3) The time which elapsed since the petitioner's disbarment.
- (4) Restitution to clients and/or the bar.
- (5) The petitioner's activities since disbarment including, but not limited to, his conduct and attitude during that period of time.
- (6) The petitioner's present reputation and standing in the community.
- (7) The petitioner's familiarity with the Virginia Code of Professional Responsibility and his current proficiency in the law.
- (8) The sufficiency of the punishment undergone by the petitioner.
- (9) The petitioner's sincerity, frankness and truthfulness in presenting and discussing factors relating to this disbarment and reinstatement.
- (10) The impact upon public confidence and the administration of justice if the petitioner's license to practice law was restored.

In addition, we have the language contained in Paragraph 13(J), Part 6, Section IV of the Rules of the Supreme Court of Virginia, which says in part:

In addition to meeting the foregoing requirements, an attorney whose license to practice law was revoked must show clear and convincing evidence that he or she is a person of honest demeanor and good moral character and that he or she possesses the requisite fitness to practice law.

Thus, in Reinstatement proceedings, there is an additional burden on the disbarred attorney, and it is a heavy one.

Addressing the Hiss factors seriatim, the Board finds:

- (1) The conduct of the petitioner which led to his surrendering of his license to practice law was his conviction on two felony counts. The Board recognizes the severity of felony convictions but notes that on the embezzlement conviction the petitioner was convicted of embezzling personal property and labor from a corporation in which he was the sole shareholder, and on the fraud conviction the false statement was presented to the lender after the petitioner had already been approved for a loan and had received the proceeds thereof.
- (2) At the time of the disbarment, the petitioner was an experienced, well-reputed attorney who knew, or should have known, that his actions were not lawful. The petitioner lacked elements of character, and his presentence report indicated that the petitioner was a person who would use whatever means necessary to attain whatever ends he desired. The officer who prepared the presentence report did not intend that comment to be complimentary.
- (3) Twenty-two years have elapsed since the time that the petitioner surrendered his license, and the Board finds that this is a sufficient period of time for the petitioner to be without his privilege to practice law. The Board notes, however, that this is petitioner's first reinstatement petition, and that he alone controlled the timing of the filing of this petition.
- (4) The Board finds that the restitution concept is not applicable.

- (5) Since the time of the surrender of his license, petitioner held several sales positions in the clothing, automobile, furniture and chemical fields, which were not held for an extensive period of time. Petitioner also owned a restaurant business, which he sold after operating the business for a period of time. Petitioner, for the most part, has been unemployed and has remained at home because of depression.
- (6) The Board finds that there was no evidence presented concerning the reputation and standing of the petitioner in his community. In fact, the evidence is to the effect that the petitioner has removed himself from the community.
- (7) The Board received evidence that the petitioner has a total of twelve continuing legal education hours, including four hours in legal ethics, during calendar year 1988, and the petitioner had successfully completed the Multi-state Professional Responsibility Examination and the Virginia real estate board examination for a sales license. The Board finds that the petitioner is familiar with the Virginia Code of Professional Responsibility.

Petitioner did not, however, by clear and convincing evidence sustain his burden of proof as to his current proficiency in the law. The Board recognizes the effort of petitioner in successfully completing the educational requirements and examination for a real estate sales license, for completing twelve hours of continuing legal education and for completing the necessary educational requirements and successfully completing the Multi-state Professional Responsibility Examination, but the Board, recognizing that petitioner has not practiced law for twenty-two years and that significant changes have occurred during this period of time, is not convinced that petitioner is currently proficient. Indeed, petitioner, in effect, acknowledged as much. Because of his ability to complete the educational requirements and to pass these tests and because of the testimony of witnesses as to the intelligence and ability of the petitioner, the Board encourages the petitioner to pursue the necessary education to become proficient in the law, should he desire to resubmit his petition in the event the Supreme Court accepts the Board's recommendation to deny the Petition at this time.

- (8) The Board finds that the punishment undergone by the petitioner is sufficient.
- (9) The Board finds that the petitioner was sincere, frank and truthful in presenting and discussing factors relating to this disbarment and reinstatement.
- (10) Petitioner presented many letters in support of his petition, and while all of the letters addressed his moral fitness and some of the letters addressed his competency as an attorney at the time of the surrender of his license, none of the letters addressed his current proficiency in the law nor the impact upon the public confidence in the administration of justice if the license of the petitioner to practice law were restored.

There were also letters opposing the petition. None of the letters were from a writer who knew the petitioner, and all opposed the restoration of the license to practice law by a convicted felon under all circumstances.

The Board finds that although some of the Hiss factors have been positively addressed by the petitioner, other factors have not been positively addressed. The burden is on the petitioner to show the Board by clear and convincing evidence that he possesses the requisite fitness to practice law. Petitioner has failed to carry this burden.

Therefore, the Board respectfully recommends to the Supreme Court that the petition to reinstate the license of M.T. Kissinger, Jr. be DENIED.

As required by Paragraph 13(K)(10) of the Rules of Court, Part Six, Section IV, the Board finds the cost of this proceeding to be as follows:

Copying	\$ 615.15
Witness expenses	\$ 0.00
Transcripts/Court Reporter	\$ 654.50
Mailing of Notice of Hearing	\$ 1,060.41
Administrative Fee	\$ <u>300.00</u>
TOTAL	\$ 2,630.06

Interest at the judgment rate shall commence on the costs assessed thirty (30) days from the day the Clerk of the Disciplinary System mails, by certified mail, return receipt requested, to the Petitioner at his address of record with the Virginia State Bar, the Virginia Supreme

Court order, unless otherwise prescribed by the Disciplinary Board.

\* \* \*

ENTERED this 16th day of June, 1999  
By Virginia W. Powell, Chair



## Disciplinary Board

BEFORE THE VIRGINIA STATE BAR  
DISCIPLINARY BOARD

In the Matter of  
**JEROME A COYLE, III**  
VSB Docket No. 97-010-2143

### ORDER

This matter came to be heard on October 15, 1999, in the matter of Jerome A. Coyle, III, VSB Docket No. 97-010-2143 before a panel of the Virginia State Bar Disciplinary Board composed of Carl A. Eason, Chair, presiding; Richard J. Colten; Donna A. DeCorleto; Karen A. Gould and Theophlise L. Twitty. The Respondent, Jerome A. Coyle, III, appeared *pro se* in person throughout this hearing. Edward L. Davis, Assistant Bar Counsel, appeared as counsel to the Virginia State Bar. The matter came before the Board by Certification from a subcommittee of the First District Committee of the Virginia State Bar, certifying certain charges of misconduct to the Virginia State Bar Disciplinary Board on December 8, 1998. At the hearing, the Respondent, Jerome A. Coyle, III, and Edward L. Davis, Assistant Bar Counsel, entered into Stipulations of Fact and Nature of Misconduct. An attested true copy of the Stipulation is attached hereto and incorporated herein by reference. The parties agree that the Stipulations of Fact give rise to violations of the following Disciplinary Rules:

DR1-102.(A)(3) and (4) \* \* \*

DR7-102.(A)(5) \* \* \*

Based on the parties' Stipulations, evidence and argument, the Board finds by clear and convincing evidence that the Respondent intentionally violated the foregoing Disciplinary Rules. The Board reviewed the prior disciplinary record of the Respondent and had an opportunity to observe the demeanor, attitude and presentation of the Respondent. The Board unanimously

believes that the Respondent accepted responsibility for his wrongful actions and demonstrated appropriate contrition and remorse. The Respondent further cooperated fully with the proceedings throughout. The parties stipulated and the Board accepts the fact that two Circuit Court Judges called Assistant Bar Counsel in order to speak well of the Respondent and request that no action be taken to prevent the Respondent from the further practice of law. The Board further accepts the proposition that the Respondent's reputation in the community, as well as with the Bench, is good. Partial restitution was made voluntarily by the Respondent.

As to an appropriate sanction, upon conclusion of the evidence, stipulations and arguments of the Respondent and Assistant Bar Counsel, and after receiving into evidence the prior record of the Respondent, the Board deliberated and determined that an appropriate sanction was the suspension of Jerome A. Coyle, III, for a period of one year, such suspension to be suspended upon certain conditions and commencing on October 15, 1999. Whereupon it is:

ORDERED that pursuant to the appropriate Rules of the Virginia Supreme Court, the license of Respondent, Jerome A. Coyle, III, to practice law in Virginia be, and the same hereby is, suspended for a period of one year commencing October 15, 1999, said suspension being suspended upon condition of:

1. The Respondent employ the services of the Virginia State Bar Lawyers Malpractice Insurance Committee's Risk Management Program in order to assess and report back on the Respondent's appropriateness of record-keeping and office management, and
2. Said analysis and recommendations be reported back to Assistant Bar Counsel within a period of six months from October 15, 1999, and
3. The recommendations for improvements and changes in record-keeping and office management procedure, if any, be completed by the Respondent within a period of six months from October 15, 1999, and
4. Full restitution to the Commonwealth of Virginia in the amount of \$960.00, giving credit for the prior partial restitution, be made within a period of thirty days from October 15, 1999, and
5. The Respondent attend six additional CLE hours in the area of ethics, above the statutorily required

number of hours, within a period of twelve months commencing October 15, 1999.

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ENTERED this 1st day of November, 1999  
 VIRGINIA STATE BAR DISCIPLINARY BOARD  
 By Carl A. Eason, Chair



BEFORE THE VIRGINIA STATE BAR  
 DISCIPLINARY BOARD

In the Matter of  
**WILLIAM GETHING DADE**  
 VSB Docket No. 97-060-2390

ORDER

This matter came to be heard on October 6, 1999, upon an Agreed Disposition between the Virginia State Bar and the Respondent, William Gething Dade, Esquire.

A duly convened panel of the Virginia State Bar Disciplinary Board consisting of Michael A. Glasser, Esquire, Roscoe B. Stephenson, III, Esquire, Randy I. Bellows, Esquire, Donna A. DeCorleto and Henry P. Custis, Jr., Esquire, Vice Chair, presiding, considered the matter. The Respondent, William Gething Dade, appeared and Dorothy M. Pater, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar.

Upon due deliberation, it is the unanimous decision of the Virginia State Bar Disciplinary Board to accept the Agreed Disposition. The Stipulations of Fact, Disciplinary Rule Violations, and Disposition agreed to by the Virginia State Bar and the Respondent are incorporated herein as follows:

1. At all relevant times hereto, the Respondent, William Gething Dade (hereinafter "Mr. Dade"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. During 1988 and 1989, Mr. Dade agreed to represent one Timothy W. Catlett (hereinafter "Mr. Catlett") in a medical malpractice suit against one Dr. Samuel B. Heard (hereinafter "Dr. Heard") for injuries sustained by Mr. Catlett due to Dr. Heard's

alleged failure to properly treat a laceration on Mr. Catlett's hand.

3. Mr. Dade subsequently filed suit against Dr. Heard on January 3, 1991. Mr. Dade nonsuited the civil action on January 14, 1992, and thereafter refiled the suit on July 8, 1992.
4. During the litigation, the defendant submitted a Request for Admissions to Mr. Dade on July 20, 1995. Mr. Dade failed to timely respond to the Request for Admissions on Mr. Catlett's behalf and did not send a response to the Request for Admissions until August 24, 1995. Mr. Dade's failure to timely respond to the defendant's Request for Admissions did not harm Mr. Catlett.
5. When Mr. Catlett's case was tried on October 24, 1996, the case got dismissed because the defendant's motion for summary judgment (based on a successful motion to strike) was granted.
6. Subsequently, Mr. Dade advised Mr. Catlett that he would pursue an appeal on his behalf. However, Mr. Dade failed to timely file a notice of appeal to the Virginia Supreme Court, he failed to timely file the petition for appeal and the trial transcript and he failed to notify opposing counsel of the filing of the transcript. As a result, the Virginia Supreme Court dismissed Mr. Catlett's appeal on June 5, 1997. Mr. Dade's petition for rehearing was denied on August 1, 1997.

The Board finds by clear and convincing evidence that such conduct on the part of William Gething Dade constitutes a violation of the following Rules of the Virginia Code of Professional Responsibility:

DR 6-101.(A)(1) and (2) \*\*\*

DR6-101.(B) \*\*\*

Upon consideration whereof, it is ORDERED that the Respondent shall receive a Public Reprimand effective upon entry of this Order.

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ENTERED this 27th day of October, 1999  
 THE VIRGINIA STATE BAR DISCIPLINARY BOARD  
 By Henry P. Custis, Jr., Vice Chair



BEFORE THE VIRGINIA STATE BAR  
DISCIPLINARY BOARD

In the Matter of  
**LUTHER CORNELIUS EDMONDS**  
VSB Docket No. 00-000-1271

RULE TO SHOW CAUSE AND  
ORDER OF SUSPENSION AND HEARING

It appearing to the Board that Luther Cornelius Edmonds was licensed to practice law within the Commonwealth of Virginia on December 4, 1977, and,

It further appearing that Luther Cornelius Edmonds was convicted of Unlawful Wounding and Unlawful Wearing of a Mask, on November 24, 1999, in the matter of Commonwealth of Virginia v. Luther C. Edmonds, Case No. CF982338, Circuit Court of the City of Alexandria, and

It further appearing that Luther Cornelius Edmonds has been convicted of a crime, as defined by the Rules of Court, Part 6, §IV, ¶13(A),

It is ORDERED, pursuant to the Rules of Court, Part 6, Section IV, Paragraph 13(E), that the license of Luther Cornelius Edmonds to practice law within the Commonwealth of Virginia be, and the same is, hereby SUSPENDED, effective immediately.

It is further ORDERED that Luther Cornelius Edmonds appear before the Virginia State Bar Disciplinary Board at the State Corporation Commission, Tyler Building, 1300 East Main Street, Second Floor, **Courtroom B**, Richmond, VA 23219, on December 17, 1999, at 9:00 a.m., to show cause why his license to practice law within the Commonwealth of Virginia should not be further suspended or revoked.

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It is further ORDERED that a copy of the Order of the Circuit Court for the City of Alexandria be attached to this Rule to Show Cause and Order of Suspension and Hearing and made a part hereof.

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ENTERED this 30th day of November, 1999  
VIRGINIA STATE BAR DISCIPLINARY BOARD  
By Carl A. Eason, Chair

*[Editor's Note: Attachment is available upon request.]*



BEFORE THE VIRGINIA STATE BAR  
DISCIPLINARY BOARD

In the Matter of  
**PAUL M. LIPKIN**  
VSB Docket No. 97-022-2189

ORDER

This matter came to be heard on October 20, 1999, upon an Agreed Disposition between the Virginia State Bar and the Respondent, Paul M. Lipkin, Esquire, by his counsel, Reeves W. Mahoney.

A duly convened panel of the Virginia State Bar Disciplinary Board consisting of Dennis P. Gallagher, Anthony J. Trenga, Esquire, Richard J. Colten, Esquire, Janipher W. Robinson, Esquire, and Deborah A.J. Wilson, Esquire, presiding, considered the matter. The Respondent, Paul M. Lipkin, appeared by his counsel, Reeves W. Mahoney, and Dorothy M. Pater, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar.

It is the decision of the Virginia State Bar Disciplinary Board to accept the Agreed Disposition. The Stipulation of Facts, Disciplinary Rule Violations and Disposition agreed to by the Virginia State Bar and the Respondent are incorporated herein as follows:

1. At all relevant times hereto, the Respondent, Paul M. Lipkin (hereinafter "Mr. Lipkin"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On September 21, 1987, Mr. Lipkin and Sylvia M. Bayard (hereinafter "Ms. Bayard") were appointed Co-Executors of the estate of Alfred A. Bayard (hereinafter "Mr. Bayard"). Mr. Bayard was Ms. Bayard's husband and he had died in 1987.
3. Pursuant to the provisions of Mr. Bayard's will, the Sylvia M. Bayard Marital Trust (hereinafter "the trust") was established and Mr. Lipkin subsequently qualified as the sole Trustee of the trust in the Norfolk Circuit Court on January 21, 1988. Ms. Bayard was the sole beneficiary of the trust.
4. Article IX, Subparagraph B.2, of Mr. Bayard's will provides that, with regard to the trust:

My wife shall have the right from time to time during her lifetime to withdraw

or otherwise dispose of all or any part of the principal of the Trust and my Trustee shall distribute to my Wife, or to her nominee, such assets of the Trust as she may direct in writing.

5. On October 23, 1996, Ms. Bayard instructed Mr. Lipkin in a letter to distribute all of the assets of the trust to her. Subsequently, Ms. Bayard, through two different legal counsel, requested Mr. Lipkin in writing on November 1, and December 9, 1996, and January 3, 1997 to distribute the trust assets.
6. Notwithstanding her requests, Mr. Lipkin failed to distribute the trust assets until after Ms. Bayard had filed a civil suit against him, individually, and as Trustee in February, 1997. During the litigation, while *pro se*, Mr. Lipkin did not comply with court orders compelling him to respond to Ms. Bayard's discovery requests.
7. On or after July 1, 1997, Mr. Lipkin delivered the assets of the trust to Ms. Bayard's legal counsel. One of the loan assets of the trust that was given to Ms. Bayard's attorney was payable to Mr. Lipkin, individually; others were made payable to him as Trustee and one was made payable to "Bearer."
8. At the time that Mr. Lipkin delivered the trust assets to Ms. Bayard's attorney, the trust assets included ten (10) loans that were made by Mr. Lipkin during his tenure as Trustee. Of the ten (10) loans, seven (7) were in default.
9. For many of the ten (10) loans made by the Trustee, there was either no collateral or the collateral shown in the records was inadequate. Many of the borrowers could not have qualified for conventional financing to obtain the loans. For several of the loans which were in default, the trust records did not show that reasonable actions (or any actions) had been taken by Mr. Lipkin to try to collect the past due loans.
10. Mr. Lipkin did not obtain financial statements from any of the borrowers and there are no documents to show that any sort of credit checks were ever done by him. However, Mr. Lipkin did have a general knowledge of the financial status of some of the borrowers. Mr. Lipkin did not even have a system in place to track the loan payments that were due each month.

11. Mr. Lipkin had conflicts of interest as Trustee when he made some of these loans. For example, loans were made to companies or entities substantially owned by Mr. Lipkin's son, which totaled \$134,000.
12. Part of the reason that Mr. Lipkin did not turn over the trust assets in a timely manner was to give his son additional time to make a payment of \$69,000 on these loans.
13. Mr. Lipkin also loaned trust funds to his law practice clients or former clients and to other individuals to whom he had personal ties. For some of the borrowers, Mr. Lipkin agreed to accept a lesser amount of interest than the interest rate cited in the loan documents.
14. Mr. Lipkin failed to exercise reasonable care and skill in managing, investing and administering the trust and its assets. Moreover, Mr. Lipkin failed to act solely for the benefit of the trust and failed to exercise his duty of loyalty to the trust.
15. After Ms. Bayard filed suit against Mr. Lipkin, individually, and as Trustee, he compensated her from his own personal funds (even though he was insured for his acts) for all losses sustained as a result of his handling of the trust. Mr. Lipkin did not receive a direct personal benefit from any of the loans he made from the trust funds and he did not engage in any criminal misconduct in his capacity as Trustee.

The Board finds by clear and convincing evidence that such conduct on the part of Paul M. Lipkin constitutes a violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 5-105.(B) and (C) \*\*\*

DR 6-101.(A)(1) and (2) \*\*\*

DR 6-101.(B) \*\*\*

DR 7-101.(A)(3) \*\*\*

DR 7-105.(A) \*\*\*

DR 9-102.(B)(4) \*\*\*

Upon consideration whereof, it is ORDERED that the Respondent shall have his license to practice law suspended for three (3) years effective on November 19, 1999, and such Suspension shall be conditioned on the following terms:

Within sixty (60) days from the date of the entry of this Order, the Respondent, Paul M. Lipkin, shall certify in writing directly to Assistant Bar Counsel, Dorothy M. Pater, that: (1) he is no longer handling any matters in a fiduciary capacity in the areas of trusts and estates or real estate and that (2) he will no longer handle any such matters in a fiduciary capacity in the future, as well.

In the event that the Respondent does not comply with the above terms, the Disciplinary Board shall impose a sanction of Revocation of the Respondent's license to practice law.

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ENTERED this 5th day of November, 1999  
THE VIRGINIA STATE BAR DISCIPLINARY BOARD  
By Deborah A.J. Wilson, Acting Chair



### BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

In the Matter of  
**STEPHEN CLARK MAGUIGAN**  
VSB Docket No. 93-070-1584  
94-070-0249  
94-070-0272  
94-070-1414

#### ORDER

This matter came on to be heard on July 22, 1999, pursuant to Notice properly sent to the Respondent by the Virginia State Bar on June 15, 1999, and received by the Respondent on June 25, 1999.

This proceeding was brought as a Show Cause against the Respondent based on an Agreed Disposition and Order entered by the Board on November 10, 1994. That Order is attached hereto and is incorporated herein by reference. In the Order, the Respondent agreed to comply with eleven terms (specifically set forth in the Order). The Bar in its Notice of Show Cause alleges that the Respondent did not comply with terms 1-8 of that Agreed Disposition.

Specifically, the Respondent did not:

1. Continue counseling after his suspension and provide quarterly reports,

2. Provide evidence of financial counseling,
3. Attend CLE courses,
4. Provide monthly reports documenting pro bono work,
5. Provide a description of his current docket control system and provide quarterly certification that the system was in use,
6. Provide the Bar with his written office policy regarding communication with clients,
7. & 8. Show proof that he has secured a mentor and further that regular reports have not been received from anyone acting as mentor.

The Respondent was contacted on May 27, 1999, and given an opportunity to respond with regard to documentary proof — no documentation was forthcoming.

In the Order of November 10, 1994, the Bar and the Respondent agreed to an alternate sanction if the Respondent failed to comply with all terms of the Order. That alternate sanction consisted of an additional thirty-month suspension of the Respondent's privilege to practice law in the Commonwealth of Virginia.

The Respondent, Stephen Clark Maguigan, did not appear, not did anyone appear on his behalf at the Show Cause Hearing. Richard C. Vorhis, Assistant Bar Counsel, appeared on behalf of the Bar. The Board, after hearing evidence in support of the Bar's position in the Show Cause case unanimously held that the Respondent had violated terms 1-8 of the Agreed Order of 1994, and unanimously imposed the alternate sanction of an additional thirty-month suspension to commence July 22, 1999.

The Hearing Panel in the Show Cause consisted of Randy Ira Bellows, Esquire, Alexandria; Eric N. Davidson, M.D., Lay Member, Danville; Roscoe B. Stephenson, III, Esquire, Covington; Robert C. Elliott, II, Colonial Heights and Michael A. Glasser, Acting Chairman, Norfolk.

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ENTERED this 29th day of October, 1999  
 VIRGINIA STATE BAR DISCIPLINARY BOARD  
 By Michael A. Glasser, Acting Chair

[Editor's Note: The original Order was published March 1995, Vol. 43/No. 8, Pgs. 34-36.]



[Editor's Note: Ms. Sawyer noted an appeal to the Virginia Supreme Court.]

BEFORE THE VIRGINIA STATE BAR  
 DISCIPLINARY BOARD

In the Matter of  
**AVA MAUREEN SAWYER**  
 VSB Docket No. 95-052-1280

ORDER AND OPINION OF REVOCATION

This matter came to be heard on September 24, 1999 in the matter of Ava Maureen Sawyer, VSB Docket No. 95-052-1280 before a panel of the Virginia State Bar Disciplinary Board composed of Carl A. Eason, Chair, presiding, Bruce T. Clark, Dennis P. Gallagher, Roscoe B. Stephenson, III and Anthony J. Trenga. Respondent, Ava Maureen Sawyer, appeared *pro se*. Noel D. Sengel, Senior Assistant Bar Counsel, appeared as counsel to the Virginia State Bar. This matter came before the Board by certification of a subcommittee of the Fifth District, Section II Committee dated April 21, 1999.

Before the presentation of evidence, Respondent renewed her previously denied Motion for a Continuance, which was again denied, and also her Motion to Dismiss, which also was denied. There was a declaration of no conflicts by each of the members of the panel that was accepted by the parties without objection. Upon Respondent's motion, witnesses were excluded. The Bar's previously filed Exhibit Nos. 1-27 were admitted collectively and Respondent's exhibits Nos. 1-4 were admitted without objection, even though they were not timely identified or filed before the hearing.

Opening statements were heard, following which the Bar presented its evidence, which consisted of its exhibits and the testimony of six witnesses; and the Respondent, her evidence, which consisted of her exhibits and her testimony.

Through the exhibits and witnesses, the following evidence was presented to the Board:

1. At all times relevant hereto, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia, and that her official address of record with the Virginia State Bar is P.O. Box 3602, Reston, Virginia 20195.
2. In September, 1990, Respondent was retained by Mr. Preston E. Conner, Sr., now deceased, in connection with a real estate dispute arising out of his sale of 82 acres in Frederick County, Virginia. Ms. Sawyer associated with Dean Worcester, a Leesburg lawyer; and on September 24, 1990, Respondent filed a bill of complaint in Frederick County Circuit Court on behalf of Mr. Conner to rescind the real estate transaction in question, a copy of which was submitted at VSB Exhibit #3 (the "Action").
3. In connection with her representation of Mr. Conner, Respondent and Mr. Worcester entered into a written fee agreement dated October 12, 1990, with Mr. Conner, marked as VSB Exhibit #7. Under the agreement, Respondent was to receive a \$10,000 flat fee for the work already performed, an advance payment of costs in the amount of \$2,500.00, and \$125.00 for Ms. Sawyer and Mr. Worcester, each, per trip to Winchester, and a one-third contingency fee based on Respondent's recovery of any value pertaining to the 82 acres in excess of the benefits he received under his sales contract, as detailed in the fee agreement.
4. On October 10, 1990, Mr. Conner, represented by Respondent, entered into a partial settlement agreement of the Action pursuant to which forty-two (42) acres of the property were sold to the Frederick County School Board for \$660,000, of which amount Mr. Conner received \$200,000 and \$460,000 was placed in an interest-bearing escrow account.
5. On December 27, 1991, Mr. Conner, represented by Respondent, entered into a comprehensive settlement agreement concerning the Action, a copy of which was introduced as VSB Exhibit #8. Under that settlement, the original real estate contract was rescinded and voided and a schedule of distributions from the previously established escrow account was specified. On January 3, 1992, by agreement of the parties, the Frederick County Circuit Court dismissed, with prejudice, the bill of complaint filed by Respondent on Mr. Conner's behalf.
6. Pursuant to the distribution schedule set forth in the settlement agreement, certain funds were paid to

Respondent by the escrow agent for Mr. Conner's benefit. Respondent placed those funds in her trust account and then paid over certain amounts to Mr. Conner, and also \$134,176.53 to herself as part of her claimed fees (a distribution that the Bar does not allege to be an ethical violation). However, a dispute arose between Mr. Conner and Respondent as to the remainder of the funds distributed to Respondent under the settlement of the Action and held by her in her trust account. Because of this dispute, Respondent refused to turn over to Mr. Conner the balance of the settlement funds held in her trust account because she claimed them as the balance of her fee, which she calculated to be a total of \$238,000. Upon the advice of Respondent, Mr. Conner thereafter retained independent counsel concerning this fee dispute.

7. Respondent was unable to resolve the fee dispute with Mr. Conner. Nevertheless, on April 8, 1992, while Respondent's fees remained in dispute, Respondent distributed to herself from her trust account in the amount of \$93,823.47, representing the balance of the \$238,000 fee she claimed. This distribution was without the knowledge, authorization or consent of Mr. Conner or his then counsel; and Respondent did not disclose to Mr. Conner or his then counsel this distribution to her from her trust account. It was also uncontradicted that in an interview with the Bar investigator, Respondent admitted that she told the Bar investigator that her withdrawing these monies from the trust account was a "gutsy move" on her part in order to force Mr. Conner and Mr. Worcester to deal with her, although she admits that she cannot explain how removing the money from her trust account would have affected her negotiations since she did not advise anyone that she had transferred those funds out of her trust account.
8. Respondent also testified that she made charitable contributions with \$50,000 of the funds withdrawn from her trust account in order to make a point to Mr. Worcester, who, at one time was her fiancé, that "money was not the point." She also claims that approximately four months after withdrawing the funds from her trust account, she, upon advice of counsel, restored the funds to a different trust account than the one from which they had been withdrawn. In this regard, the evidence showed that on August 12, 1992, she established with an initial deposit of \$50,688.77 an interest bearing trust account at Vista Federal that specifically referenced Mr. Conner. On August 17, 1992, she deposited an additional \$44,258.74 to his account (for a total deposit into the new trust account of \$94,944.51). Then, on August 18, 1992, she transferred \$12,209.72 from her general trust account to the new Vista Federal trust account. At the time of the fee litigation, she still held \$1,626.76 of the settlement proceeds in her general trust account.
9. In 1994, without knowledge of Respondent's distributions to her from her trust account, Mr. Conner, through his counsel, filed a Petition in Equity, an action styled *Conner v. Sawyer, et al.*, Chancery No. 93-149, seeking a resolution of the fee dispute that existed with Respondent and Mr. Worcester. On August 26, 1994, the Court entered a Final Decree in that lawsuit in which the Court found that the fee due Respondent and Mr. Worcester jointly was \$134,000 (an amount Respondent had already received); that the amount still owed to Mr. Conner by Respondent was \$117,085.94; that interest on the sum would accrue at 8% from July 29, 1992; and that Respondent was to pay the amount due to Mr. Conner by July 7, 1994. The Court also found that Respondent owed Mr. Worcester \$62,000 as his share of the \$134,000 that the Court found to be the appropriate fee from and already paid by Mr. Conner.
10. On June 30, 1994, Respondent delivered the sum of \$117,795.36 to the Frederick County Circuit Court Clerk's office for Mr. Conner. Respondent did not pay approximately \$20,000 of the interest awarded to Mr. Conner by the Court, and did not pay any of the \$62,000 in attorneys fees that the Court awarded to Mr. Worcester.
11. Following the Court's ruling, Mr. Worcester executed upon the judgment entered in his favor and issued discovery to Respondent in aid of execution. Respondent did not respond to that discovery as required. As a result, she was served personally with a Rule to Show Cause, requiring that she appear before the Circuit Court for Frederick County on May 10, 1995. Respondent failed to appear as ordered because, as she testified at the hearing, she viewed the Court's orders as invalid and void and did not want to consent to the Court's jurisdiction over her. Because of her failure to appear in response to the Rule to Show Cause issued against her, on June 1, 1995, the Frederick County Circuit Court issued a *capias* for Respondent's arrest, all as appears from VSB Exhibit #26. After learning that a *capias* was outstanding for her arrest, she moved

from her permanent residence in Reston in order to avoid arrest and since 1995, has resided at places other than her Reston residence. She has not notified the Bar of her current residence and has returned to her home only sporadically, while checking her post office box listed with the Bar. She candidly admitted in open court that she has not resided at her permanent address in Reston and has not notified the Bar, the Court or law enforcement authorities of her whereabouts in order to avoid "being collared."

12. The Bar alleged that Respondent violated the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 1-102.(A)(3) and (4) \* \* \*

DR 2-105.(A), (B) and (C) \* \* \*

DR 9-102. (A)(1) and (2) \* \* \*

DR9-102. (B)(3) and (4) \* \* \*

At the close of the evidence, the Bar withdrew its allegations that Respondent had violated DR2-105(B) and DR9-102(A)(1).

13. Following the presentation of evidence by the Bar and by Respondent, the Board deliberated and determined that the Bar had proven by clear and convincing evidence that Respondent has violated DR1-102(A)(3) and (4), DR2-105(C), DR9-102(A)(2) and DR9-102(B)(4) but had failed to prove by clear and convincing evidence a violation of DR2-105(A). The Board then entertained argument and the presentation of evidence as to an appropriate sanction, following which the Board adjourned again and, after deliberations, reconvened to announce its decision that Respondent's license to practice law be revoked, effective immediately. The Board also placed on the record that the appropriate law enforcement authorities had been notified of Respondent's whereabouts and were present to execute the outstanding *capias* for Respondent, who was taken into custody at the close of the hearing.

Whereupon it is:

ORDERED that pursuant to Part 6, §IV, ¶13C.(3) of the Rules of the Virginia Supreme Court that the license of Respondent, Ava Maureen Sawyer, to practice law in Virginia be, and the same hereby is, revoked, commencing September 24, 1999 as set forth in the Board's Order dated and entered September 24, 1999, attached hereto: –

\* \* \*

ENTERED this 16th day of November, 1999  
 VIRGINIA STATE BAR DISCIPLINARY BOARD  
 By Carl A. Eason, Chair



BEFORE THE VIRGINIA STATE BAR  
 DISCIPLINARY BOARD

In the Matter of  
**CARROLL EUGENE SMITH**  
 VSB Docket No. 97-060-1365

ORDER

This matter came to be heard on October 6, 1999, upon an Agreed Disposition between the Virginia State Bar, and the Respondent, Carroll Eugene Smith, Esquire.

A duly convened panel of the Virginia State Bar Disciplinary Board consisting of Michael A. Glasser, Esquire; Roscoe B. Stephenson, III, Esquire; Randy I. Bellows, Esquire; Donna A. DeCorleto and Henry P. Custis, Jr., Esquire, Vice Chair, presiding, considered the matter. The Respondent, Carroll Eugene Smith, appeared and Dorothy M. Pater, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar.

It is the decision of the Virginia State Bar Disciplinary Board to accept the Agreed Disposition. The Stipulations of Fact, Disciplinary Rule Violations, and Disposition agreed to by the Virginia State Bar and the Respondent are incorporated herein as follows:

1. At all relevant times hereto, the Respondent, Carroll Eugene Smith (hereinafter "Mr. Smith"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On March 28, 1996, Mr. Smith agreed to represent the Complainant in obtaining a divorce from her husband. During their initial interview on March 28, 1996, Mr. Smith invited the Complainant to join him for drinks that evening at the Holiday Inn South in Fredericksburg, Virginia.
3. That evening, the Complainant met Mr. Smith at the Holiday Inn and during their time together, he asked her to go home with him. The Complainant declined Mr. Smith's invitation.

4. Subsequently, Mr. Smith began calling the Complainant in an effort to pursue a romantic and sexual relationship with her, as well as to discuss matters regarding her divorce case and property settlement. The Complainant ultimately acquiesced and Mr. Smith and the Complainant dated for approximately two months while Mr. Smith continued to represent her in her divorce proceedings.
5. The sexual relationship between Mr. Smith and the Complainant was consensual.
6. The Complainant's divorce proceedings involved issues of child custody, child support, spousal support and division of marital property.
7. On June 5, 1996, the Complainant learned that Mr. Smith had renewed his relationship with a former girlfriend and she became upset.
8. On June 6, 1996, the Complainant sent Mr. Smith a letter in which she terminated his representation of her. Mr. Smith subsequently contacted the Complainant and asked her to allow him to take divorce depositions, which the Complainant agreed for him to do.
9. After the Complainant's deposition was taken, she continued to feel angry about the way the personal relationship between them had ended. The Complainant refused to allow Mr. Smith to submit a final decree on her behalf, and during December, 1996, she contacted other counsel to represent her.
10. On December 23, 1996, the Complainant's new counsel notified Mr. Smith that he was representing her and he asked Mr. Smith to send him her files. Mr. Smith ultimately sent the Complainant a copy of her file on March 15, 1997.
11. Mitigating factors include the fact that the Complainant was not harmed in her divorce proceedings by her sexual relationship with Mr. Smith and Mr. Smith handled her divorce case in an expeditious matter. Moreover, Mr. Smith has no prior disciplinary record.

The Board finds by clear and convincing evidence that such conduct on the part of Carroll Eugene Smith constitutes a violation of the following Rules of the Virginia Code of Professional Responsibility:

DR1-102.(A)(3) \* \* \*

DR5-101.(A) \* \* \*

Upon consideration whereof, it is ORDERED that the Respondent shall receive a Public Reprimand, effective upon entry of this Order.

\* \* \*

ENTERED this 27th day of October, 1999  
VIRGINIA STATE BAR DISCIPLINARY BOARD  
By Henry P. Custis, Jr., Vice Chair



### District Committee

BEFORE THE FIRST DISTRICT COMMITTEE  
OF THE VIRGINIA STATE BAR

In the Matter of  
**MICHAEL DANA EBERHARDT**  
VSB Docket No. 99-010-0557

On November 4, 1999, the Committee convened to conduct a Show Cause Hearing in this matter. The hearing was held before a duly convened First District Committee panel consisting of J. Wayne Sprinkle, Esquire; John W. Jelich, III, Esquire; Robert L. Bailey, Lay Member; Tyrone J. Melvin, Sr., Lay Member and Michael S. Mulkey, Esquire, presiding. The Respondent, Michael Dana Eberhardt, was duly noticed but did not appear, having indicated by letter and telephone that he would not be present. Edward L. Davis, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar.

The matter came before the Committee in order for the Respondent to Show Cause why the alternate disposition of a Public Reprimand should not be imposed. The alternate disposition derived from a prior agreement between the Bar, the Respondent and his counsel for a Private Reprimand with Terms issued on October 8, 1998.

It was the decision of the panel that the Respondent did not comply with two of the three terms of the aforesaid disposition, and that he did not meet his burden of proof. Accordingly, pursuant to Part Six, Section IV, Paragraph 13(B)(7) of the Rules of the Supreme Court, the First District Committee of the Virginia State Bar hereby serves upon the Respondent the following alternate disposition of a Public Reprimand.

I. FINDINGS OF FACT

1. During all times relevant hereto, the Respondent, Michael Dana Eberhardt (hereinafter “Respondent” or “Mr. Eberhardt”) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. During August, 1995, Complainant Virgil Wayne Stroud hired Mr. Eberhardt to pursue his divorce. He paid Mr. Eberhardt \$2,500.
3. On September 11, 1995, Mr. Eberhardt filed an Answer and Cross-Bill on behalf of Mr. Stroud. On January 16, 1996, Mr. Eberhardt appeared before the court and a motion for *pendente lite* spousal support was granted by the court. On April 13, 1996, Mr. Eberhardt met with Mr. Stroud and his family at their home regarding the issues to be addressed at the April 15, 1996 Commissioner’s hearing. On April 15, 1996, a Commissioner’s hearing was held in front of Thomas H. Rose, Jr., Commissioner in Chancery. On August 6, 1996, the transcript of the hearing was received at the Commissioner’s office. Since that time, Mr. Eberhardt has taken no further action on behalf of Mr. Stroud and the divorce has not been completed.
4. Having not heard anything, both Mr. Stroud and his sister, Eleanor Zurich, contacted Mr. Eberhardt’s office on numerous occasions. Mr. Eberhardt, however, failed to return their calls. As a result, Mr. Stroud wrote to the Virginia State Bar during August of 1997, asking for help in resolving the dilemma. On August 18, 1997, the Virginia State Bar Intake Counsel wrote to Mr. Eberhardt asking him to communicate with Mr. Stroud and the Bar about the status of the case and hopefully avoid initiating a formal ethics inquiry into the matter. Mr. Eberhardt did not respond to the Virginia State Bar Intake Counsel’s proactive efforts, and did not communicate with Mr. Stroud.
5. Following the initiation of a formal Virginia State Bar investigation, Mr. Eberhardt advised the Virginia State Bar Investigator on December 3, 1997 that he was in the process of preparing a letter to Mr. Stroud explaining the situation and offering to continue representing Mr. Stroud if he chose. As late as May, 1998, however, Mr. Stroud has not heard anything from Mr. Eberhardt, and has no idea about the status of his divorce case.

II. NATURE OF MISCONDUCT

The Committee finds that the following Disciplinary Rules have been violated:

DR6-101.(B), (C) and (D) \* \* \*

III. PUBLIC REPRIMAND

Accordingly, it is the decision of the Committee to impose a Public Reprimand, and the Respondent is hereby so reprimanded.

\* \* \*

FIRST DISTRICT COMMITTEE  
OF THE VIRGINIA STATE BAR  
By Michael S. Mulkey, Chair  
Certified November 10, 1999



BEFORE THE SECOND DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

In the Matter of  
**DOUGLAS FREDERICKS**  
VSB Docket No. 96-021-0282

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On September 24, 1999, a meeting in this matter was held before a duly convened Second District Subcommittee consisting of Deborah M. Casey, Jon F. Sedel and Joseph R. Lassiter, Jr. presiding.

Pursuant to Part 6: §IV, ¶13(B)(5)(c)(ii)(d)(i) of the Rules of the Supreme Court of Virginia, the Second District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Douglas Fredericks (hereinafter referred to as “Respondent” or “Fredericks”), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Until 1996, Barry Lee Jenkins (hereinafter "Jenkins") was an attorney licensed to practice law in the Commonwealth of Virginia who, for the time relevant hereto, was engaged in the general practice of law as a solo practitioner.
3. During the times relevant hereto, Respondent was also engaged in the general practice of law in the Tidewater area as a solo practitioner.
4. Between June 30, 1992 and September 13, 1993, Respondent and Jenkins moved funds between their respective trust accounts and general operating accounts. The amounts switched between the two accounts over that period of time totaled approximately \$285,217.00. During this period of time, for every trust account check written from Jenkins to Respondent, there would be a trust account check of a slightly different amount from Respondent to Jenkins. These transfers were designed and effected to reimburse each account over time.
5. Respondent admits that Jenkins came to him in 1992 seeking help with Mr. Jenkins' ongoing domestic problems.
6. In 1992, the Respondent agreed to take actions to help Jenkins by transferring funds for Jenkins because at a prior time, the Respondent had been confronted by the Williamsburg police who were trying to return the Respondent's young, minor daughters to the custody of a man who Child Protective Services later determined had molested both of the young girls. After all of the Respondent's efforts to prevent the police from returning his daughters to the man, Jenkins intervened at the scene on behalf of the Respondent and his daughters and prevented the police from returning the young girls to the man. Respondent acknowledges that his agreement with Jenkins' requests to transfer funds for Jenkins was a serious mistake and has only offered this information as an explanation of this action and in mitigation in this matter.
7. Respondent admits that Mr. Jenkins requested the Respondent to write checks back to Jenkins in an attempt to make it more difficult for Jenkins' wife to figure out how much money Jenkins was actually earning.
8. Such conduct on the part of Respondent was wrongful in that it was done with his express purpose of assisting Jenkins to keep his bank accounts confusing to make it more difficult for his wife and her attorney to determine the exact amount of funds in Jenkins' accounts.
9. Respondent admits that he did not keep the subsidiary ledgers and required books and records for at least five years following the completion of the particular fiduciary obligation and accounting as mandated by DR 9-103. Respondent admits that he destroyed the ledgers, books and records after three years.
10. Mitigating factors recognized by the ABA include full and free disclosure to the bar investigator and a cooperative attitude toward the disciplinary proceedings.

Wherefore, the Virginia State Bar, by counsel, states that such conduct by Respondent, Douglas Fredericks, as set forth above, constitutes Misconduct in violation of the following Disciplinary Rules of the revised Virginia Code of Professional Responsibility:

DR1-102.(A)(3) and (4) \*\*\*

DR9-102.(A)(1) and (2) \*\*\*

DR9-103.(A)(1), (2), (3) and (4) \*\*\*

### 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 will be a predicate for the disposition of a Public Reprimand with Terms of this complaint. The terms and conditions shall be met within the time set forth below:

1. By February 28, 2000, Mr. Fredericks shall enroll in and attend a total of four (4) hours of Continuing Legal Education in the area of Law Office Management and/or other CLE courses directly related to the Respondent's area(s) of practice and in the area of legal ethics, which four (4) hours shall not be applied toward the Respondent's compliance with his annual Mandatory Continuing Legal Education requirement. By February 28, 2000, Mr. Fredericks shall certify in writing to Assistant Bar Counsel, Richard C. Vorhis, that he has complied with this term.

2. Mr. Fredericks agrees that the Virginia State Bar may conduct an audit of his trust account at any time within six months from the date of the entry of this Public Reprimand with Terms to determine that his trust account procedures continue to be in compliance with all of the applicable Rules of the Virginia Supreme Court.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by the aforesaid date, the District Committee shall serve the Respondent with a Petition for a Rule to Show Cause as to why he has not complied with the aforesaid Terms in a timely manner. If the Committee finds that the terms were not complied with in a timely manner, the Committee shall certify this matter to the Disciplinary Board.

SECOND DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By Joseph R. Lassiter, Jr., Subcommittee Chair  
Certified October 12, 1999

