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.

Respondent's Name	Address of Record (City/County)	Action	Effective Date	Page
Andrea Kimberly Amy-Pressey	Williamsburg	Public Reprimand	March 13, 2000	45
Woodson T. Drumheller	Richmond	2 Year Suspension	February 17, 2000	39
Charles Jefferson McCall	Midlothian	Public Reprimand w/Terms	March 6, 2000	41
Lawrence Raymond Morton	Woodbridge	Public Reprimand w/Terms	March 24, 2000	43
Everett Michael Myers	Portsmouth	2 Year Suspension	February 18, 2000	44
Jeffrey Peter O'Connell	Fairfax	Public Reprimand	February 29, 2000	46
James Bryan Pattison	Sterling	Public Reprimand	March 8, 2000	47
William McMillan Powers	Portsmouth	Deny Reinstatement	January 24, 2000	35

Surrenders with Disciplinary Charges Pending

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

Respondent's Name	Address of Record (City/County)	Jurisdiction	Effective Date
Harold Wilmer Dingman	Ooltewah, TN	Disciplinary Board	March 24, 2000
Richard William Yancey	Arlington	Disciplinary Board	March 24, 2000

Supreme Court

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 24th day of January, 2000.

In the Matter of
WILLIAM McMILLAN POWERS

On January 6, 1998 came William McMillan Powers 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 William McMillan Powers not be reinstated.

The Court having considered the record of the hearing and the recommendation of the said Disciplinary Board, it is ordered that the petition for reinstatement be and it hereby is denied.

A Copy,
Teste:

Clerk

■

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
WILLIAM McMILLAN POWERS
VSB Docket No. 98-000-1641

RECOMMENDATION ORDER

On February 26, 1999, this matter came on for hearing upon the petition for reinstatement of the license of William McMillan Powers (hereinafter referred to as "Powers") to practice law in the Commonwealth of Virginia. The hearing was held before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Richard J. Colten, Eric N. Davidson, William M. Moffet, Roscoe B. Stephenson, III, and Virginia W. Powell, Chair, presiding.

All notices required by law were sent by the Clerk of the Disciplinary System. The Clerk received a large number of letters written in support of the petition and one in opposition. Copies of all notices sent and letters received were made a part of the record.

Powers appeared in person, represented by his counsel, Rhetta Moore Daniel.

Edward L. Davis appeared as counsel for the Virginia State Bar.

* * *

Testifying in support of the petition were Powers and five witnesses called by him. Four additional witnesses appeared to testify in support of the petitioner.

Bar counsel opposed reinstatement and called one witness.

The petition for reinstatement was referred to this Board for recommendation pursuant to Part Six, Section IV, Paragraph 13(J) of the Rules of the Supreme Court of Virginia, which provides, in part:

. . . an Attorney whose license to practice law was revoked must also show by 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.

In deciding its recommendation this Board conducts a case-by-case analysis using the ten criteria established in this body's opinion, In the matter of Albert L. Hiss, Docket No. 83-26, dated May 24, 1984. We have considered the petition, the bill of particulars, all exhibits and documentary evidence, the testimony, and argument of counsel in the light of these criteria. It is the unanimous recommendation of this Board to the Virginia Supreme Court that William McMillan Powers' petition for reinstatement of his license to practice law in the Commonwealth of Virginia be denied.

The following shall summarize our reasons for this recommendation within the framework of the ten Hiss criteria.

1. The Severity of the Petitioner's Misconduct Including, But Not Limited to, the Nature and Circumstances of the Misconduct.

In 1992 Powers pled guilty to a federal criminal information alleging one felony count of bank fraud in violation of 18 U.S.C. § 1344. On May 28, 1992 Powers petitioned the Supreme Court of Virginia to surrender his license to practice law. His license was revoked by order entered June 26, 1992.

The government alleged, and Powers stipulated, that he and his law partner, Danny K. Smith (hereinafter referred to as "Smith"), while engaged in the commercial development of real estate in the Portsmouth area, conducted a scheme and artifice to defraud Mutual Federal Savings and Loan Association (hereinafter referred to as "Mutual Federal") by inducing it through fraudulent misrepresentations to make loans to Powers and Smith for 28 townhouses they had developed.

The Mutual Federal transactions arose from a troubled project of Hampton Roads Development Corporation, a Virginia corporation (hereinafter referred to as "HRDC") owned by Powers and Smith and of which Powers was secretary and vice president and Smith was president. Upon completion of the 28 townhouses the development and construction loan, not financed by Mutual Federal, was due. HRDC was unable to sell the units. Powers and Smith proposed to each purchase 14 of the units individually and rent them until they could be sold. Mutual Federal agreed to finance these purchases by taking 14 notes each from Powers and Smith, each note secured by a first deed of trust on one townhouse. Mutual Federal agreed that upon sale of a townhouse, the note and deed of trust applicable to that unit could be assumed by the purchaser, thus obviating the need for further financing.

Mutual Federal's requirements called for Powers and Smith to apply a down payment to the purchase of each townhouse. To circumvent this requirement they carried out a fraudulent scheme to obtain "100%" financing in contravention of the bank's and the United States Department of Housing and Urban Development's lending practice. In pursuit of the deception, Powers and Smith submitted sales contracts to Mutual Federal, signed by them individually and as officers of HRDC, which fraudulently overstated the contract prices of the townhouses. In support of the inflated prices, they submitted false, fraudulent and fictitious leases to Mutual Federal, in which they, as individual owners of the units, purported to lease the units back to HRDC. The rent stated in these leases was substantially higher than actual rent received by HRDC from individual tenants.

Smith's purchase of the first 14 units was closed in July, 1985. Powers acted as the closing attorney and settlement agent for Mutual Federal, signing all documents as such. He signed settlement statements documenting fraudulently inflated sales prices and false and fictitious cash down payments.

Powers purchased the other 14 units in January, 1986, with Smith acting as closing attorney and settlement agent for Mutual Federal. Again they used the same ruse; inflated sales prices, false leases, and inflated settlement statements with fictitious cash down payments, this time with Powers signing the false and fraudulent documents as purchaser.

Powers and Smith engaged in other unrelated transactions of similar nature.

Powers' real estate development business declined with the general real estate market failure of the late 1980s. The subject properties never sold. Mutual Federal foreclosed, suffering a loss of $55,000.00. Over the same time period, Powers and Smith incurred other devastating losses. For several years Powers did what he could to pay creditors, but in April, 1995, he and his wife filed for Chapter 7 bankruptcy. Nothing was ever paid toward the Mutual Federal debt.

On February 25, 1992, Powers signed a plea agreement with the United States Attorney to plead guilty to one felony count of bank fraud. According to Powers, the alternative would have been a 100+ count indictment that could not successfully be defended.

On May 28, 1992, the same day as his sentencing hearing, Powers filed with the Virginia Supreme Court a petition to surrender his license to practice law.

Thus, the nature of the Powers' misconduct consists of clear and egregious violations of DR 1-102(A)3 (commission of a crime); DR 1-102(A)4 (engage in dishonesty, fraud, deceit, or misrepresentation); and DR 5-101(A) (exercise of professional judgment affected by his own financial, business, property, or personal interests). Powers' misconduct was of a most serious nature. He used the franchise of his license to prey upon his client, Mutual Federal, for his own monetary gain. In his testimony, Powers claimed that the illegal scheme was concocted by one or more officers of Mutual Federal, although he was unable even to name the individuals with whom he dealt at Mutual Federal. If this is true, it does not mitigate the severity of his wrongdoing. The victim of his fraud was the corporation, and ultimately its depositors, or the taxpayers (through the Department of Housing and Urban Development guarantee).

Powers' witnesses all testified that they followed reports of Powers' case in the press, which further underscores the sever-

ity of this misconduct. There is no doubt that Powers' misconduct diminished the integrity of the legal profession, not only in the view of his client, but also in the public eye. Although only aspirational we take note of Ethical Consideration EC 1-5, which speaks directly to this point:

EC 1-5 A lawyer should maintain high standards of professional conduct and should encourage fellow lawyers to do likewise. He should be temperate and dignified, and he should refrain from all illegal and ethically reprehensible conduct which reflects adversely on his fitness to practice law. *Because of his position in society, even minor violations of law by a lawyer may tend to lessen public confidence in the legal profession.* Obedience to law exemplifies respect for law. To lawyers especially, respect for the law should be more than a platitude. (emphasis added)

2. The Petitioner's Character, Maturity and Experience at the Time of His Disbarment.

For the period before his disbarment, Powers' witnesses characterize him as honest, ethical, forthright and mature; a man of deep faith and religious conviction; an attentive family man; a man with focus and established priorities.

Powers served a two year clerkship under Chief Justice Lawrence W. I'Anson of the Virginia Supreme Court, followed by practice as an associate with the law firm of Moody, Strople & Kloeppel for some 4 years prior to devoting his practice largely to real estate development. By the time of the offenses, he was a seasoned real estate practitioner.

By the end of 1987, Powers had made enough money to retire from real estate development. He enjoyed a prosperous, if not luxurious, lifestyle. At that time, he dissolved his partnership with Smith with the intention to open a solo practice limited to only a very few cases of interest to him. Shortly thereafter, the real estate boom collapsed, and old liabilities took away his prosperity.

Notwithstanding the opinions of those who testified to his good character, it is undisputed that over a prolonged period during his real estate development practice, Powers engaged in a series of fraudulent transactions. Powers claims he never conceived of them as illegal until years after the fact, but we are of the opinion that these transactions were patently fraudulent and illegal. A lawyer of his experience, education and intelligence could not fail to recognize the illegality of these schemes. Powers stated that the schemes were driven by his short sighted belief that "running the business was more important than anything we were doing." We can only conclude that he compromised his honesty to fuel his desire for wealth. These facts clearly demonstrate serious character flaws and a general lack of mature judgment, all of which existed prior to disbarment.

3. The Time Elapsed Since the Petitioner's Disbarment.

Powers surrendered his license on May 28, 1992, the day he was sentenced to the federal penitentiary. Six years and nine months have since passed.

4. Restitution to Clients and/or the Bar.

Powers has made no restitution to Mutual Federal for its $55,000.00 loss. In fact, he caused the debt to be discharged in bankruptcy in 1995.

In paragraphs 25 and 29 of his petition for reinstatement, Powers states that his wrongdoing did not involve the attorney-client relationship and that no client funds were lost. He asserts that "[he] was not and is not obligated to make any restitution to any of his former clients." We strongly disagree.

5. The Petitioner's Activities Since Disbarment Including, But Not Limited to, His Conduct and Attitude During that Period.

Powers has worked as a paralegal for Moody, Strople & Kloeppel since his release from federal prison in November, 1992. By all accounts, his work in that position has been excellent. He has involved himself in various church and community activities. No infractions of the law have been shown. He maintains close family ties. The witnesses stated that his attitude is forthright and that he fully accepts responsibility for his wrongdoing without making excuses or shifting blame to others.

6. The Petitioner's Present Reputation and Standing in the Community.

By all accounts, Powers is respected and well-liked in the community. We do note, however, that none of the witnesses appearing on his behalf knew any details of his crimes; and except for John H. Underwood, III, no witness had read the criminal information.

We cannot say what Powers' present reputation in the community might be if the details of his crimes were generally known.

7. The Petitioner's Familiarity with the Virginia Code of Professional Responsibility and his Current Proficiency in the Law.

Since January 1993, Powers completed numerous hours of Continuing Legal Education credit in various topics, including legal ethics. He also has taken various courses in mediation. On March 8, 1996, Powers successfully took and passed the Multi-State Professional Responsibility Examination administered by the National Conference of Bar Examiners.

His employers testified that Powers has an excellent grasp of the law.

8. The Sufficiency of the Punishment Undergone by the Petitioner.

Powers served seven months of a 12 month sentence in the federal penitentiary. After release, he was on supervised probation for two years. The terms of his sentence did not provide for restitution.

9. THE PETITIONER'S SINCERITY, FRANKNESS AND TRUTHFULNESS IN PRESENTING AND DISCUSSING FACTORS RELATING TO HIS DISBARMENT AND REINSTATEMENT.

The Bar has no prior record of these offenses. Powers' petition to surrender, dated May 15, 1992, contains no facts. To fulfill its duty, the Board must understand the true nature and full extent of professional wrongdoing that led to the license surrender. Given this general lack of background information, we entertain a proceeding in which, perhaps more than any other, the burden falls on the petitioner to disclose all of the underlying facts fully, frankly, and truthfully. We do not feel Powers carried this burden.

The criminal information paints only a conclusory outline of the fraudulent scheme. At the outset of his testimony, Powers stated that the criminal information was true and that he had done what was alleged, but when questioned about the specifics of the crimes, he was vague. He could not answer basic questions concerning the workings of the scheme, the representations of fictitious second mortgages on settlement statements, or the particulars of the false leases. The central theme of Powers' account was that Mutual Federal concocted the scheme and he went along. He repeatedly said he knew what he as doing but did not conceive of it as illegal until confronted by the FBI years later, at which time the illegality seemed obvious.

The Bar called Robert J. Seidel, Jr., the Assistant U.S. Attorney who prosecuted Powers. He testified to important details Powers had left out, and his testimony conflicted with Powers on several material points. For instance, Powers insists he told the government about officers or employees of Mutual Federal participating in the scheme; but the government investigation found no evidence of this, and there was no record that Powers had made such statements. Seidel reinforces our belief that it was impossible for Powers not to have recognized the illegality of the scheme at the time of his wrongdoing.

We also note that Powers' testimony conflicted in some material points with testimony he previously gave at his sentencing and at Smith's trial.

On rebuttal, Powers was more forthcoming with facts he did not seem to recall when first questioned. At this point he maintained that the false leases to his development company were somehow not fraudulent, but merely a "bookkeeping matter." He again insisted that he reported complicity of Mutual Federal's employees. We have no doubt that the leases were false and fraudulent as alleged in the criminal information. While we cannot resolve the question of whether officers or employees of Mutual Federal were involved, we do not believe that Powers reported this to the government.

As previously noted, Powers claims in his petition that the wrongdoing did not involve an attorney-client relationship and that no client funds were lost. This is not a sincere or forthright assessment. In 14 transactions, Powers acted as closing agent for financing provided by Mutual Federal applied to real estate purchases by his partner. He had an attorney-client relationship with Mutual Federal in each of those transactions. The other 14 transactions involved Powers as purchaser and his partner as closing agent. In the context of the fraud practiced on Mutual Federal and the patent conflict of interest, we believe that the reversal of roles is more form than substance. From the stand Powers did acknowledge the inaccuracy of his allegations of an absence of attorney-client relationship.

Powers has not been forthright in explaining the circumstances of his disbarment to the witnesses who appeared on his behalf.

Willard J. Moody, Sr. characterized the wrongdoing as "unintentional."

It was Joseph R. Mayes' understanding that fraudulent documents had been prepared by Smith and that Powers had just signed them. He believes the real culpability lies with Smith. He was not aware that Powers was the purchaser of 14 of the townhouses or that he was to pay a down payment on each transaction. He was aware that prices had been inflated on the settlement statements, but he had the impression from Powers that Smith had prepared them and Powers had signed them not knowing they were fraudulent.

Rev. George F. Mullinax knew that Powers signed false HUD-1 statements. He said that Powers gave him the impression that signing the false documents was an oversight.

Christopher M. Service knew Powers' crimes dealt with closing papers in financing properties and that he had signed documents that were regarded as fraudulent. He understood that Powers did not recognize the documents as fraudulent when he signed them and would not have signed them if he had known.

Dr. Charles Allen Bullaboy stated he was not familiar with the offense.

Stan Del Clark did not know the specifics of the offense. He had read some reports about it in the newspaper.

Richard L. Dail denied knowledge of any specifics of the offense and had not discussed it with Powers.

Byron P. Kloeppel believes Powers was led astray by his partner.

10 THE IMPACT UPON PUBLIC CONFIDENCE IN THE ADMINISTRATION OF JUSTICE IF THE PETITIONER'S LICENSE TO PRACTICE LAW WAS RESTORED.

Most, if not all, witnesses commented that they had read newspaper accounts of Powers' fraud. We have no doubt that Powers has caused damage to public confidence in the legal profession. Although Powers' witnesses state that there will be no adverse impact upon public confidence if his license is restored, it is clear that they all lack understanding of the nature and severity of his crimes. Their opinions may not be representative of the opinions of other members of the public better versed in what Powers actually did. We believe that restoration of Powers' license to practice law would have a

negative impact upon public confidence in the administration of justice, given the nature and severity of his wrongdoing.

Having considered the evidence and exhibits in the light of all the factors discussed herein, it is the unanimous opinion of this Board that the petitioner has not shown by clear and convincing evidence that he is a person of honest demeanor and good moral character and that he possesses the requisite fitness to practice law. Accordingly, it is the unanimous recommendation of this Board that the Virginia Supreme Court deny William McMillan Powers' petition for reinstatement.

The Petitioner posted a bond of $1,000.00 for payment of costs with his petition for reinstatement. As required by Paragraph 13.K.(10) of the Rules of the Virginia Supreme Court, Part Six, Section IV, the Board finds the costs of the proceeding to be as follows:

Mailing of notice		$ 878.76
Copying		1,255.49
Court reporter		1,218.25
Witness expenses		0.00
Administrative fee		300.00
	TOTAL	$3,652.50

* * *

ENTERED this Order this 1st day of November, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Virginia W. Powell, Chair

■■■

Disciplinary Board

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

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
WOODSON T. DRUMHELLER
VSB Docket No. 98-033-1399

ORDER

This matter came on to be heard on February 17, 2000, before a panel of the Disciplinary Board consisting of Carl A. Eason, Chair, presiding, D. Stan Barnhill, Eric N. Davidson, John A. Dezio and Theophlise L. Twitty. The State Bar was represented by Barbara Ann Williams, Bar Counsel, and the Respondent, Woodson T. Drumheller appeared in person and with his counsel Rhetta Moore Daniel. This matter came before the Board on a Certification from the Third District, Section III, Committee of the Virginia State Bar.

MOTIONS

Exhibits 1 thru 33, of the State Bar were admitted without objection at the beginning of the hearing. Exhibits 33A, 33B, 33C and 33D of the State Bar were admitted without objection during the testimony of the Respondent. Exhibit 34 of the State Bar was admitted without objection during the sanction phase of the hearing.

FINDINGS OF FACT

The Board finds, by clear and convincing evidence, the following facts:

1. At all relevant times, the Respondent, Woodson T. Drumheller, has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On September 13, 1988, another inmate at the Richmond City Jail stabbed the complainant, Albert Leon Jones, in the eye.

3. On December 12, 1988, Mr. Jones signed a written agreement engaging Mr. Drumheller to represent him on all claims arising out of the incident, including the loss of Mr. Jones' eye.

4. The engagement agreement obligated Mr. Drumheller "to pursue Client's claim(s) diligently, informing Client of developments as same occur, so Client can make informed decision, with Attorney's advice, regarding settlement or institution obligation (civil suit)."

5. Mr. Drumheller gave the City of Richmond statutory notice of Mr. Jones' claim on March 16, 1989; Mr. Jones was copied on the letter.

6. On May 9, 1989, Mr. Jones wrote Mr. Drumheller, asking for his assistance in obtaining a glass eye; Mr. Drumheller did not respond to the letter.

7. On May 30, 1989, Mr. Jones wrote Mr. Drumheller, inquiring about the progress of his case; Mr. Drumheller responded to Mr Jones' letter, which was postmarked June 26, 1989, by letter dated July 10, 1989, stating "your case is progressing well and I will keep you apprised as to any new developments."

8. On September 25, 1989, Mr. Jones wrote Mr. Drumheller, asking about his case; Mr. Drumheller did not reply to the letter and never provided a copy of the documents to Mr. Jones.

9. On November 28, 1989, Mr. Drumheller wrote Mr. Jones, acknowledging that Mr. Jones had telephoned him twice and asking Mr. Jones to call him again and to advise him if Mr. Drumheller could visit him at the James River Correctional Center, where Mr. Jones was incarcerated.

10. On January 10, 1990, Mr. Drumheller wrote Mr. Jones, advising him that his medical records had been requested

from the Medical College of Virginia and asking Mr. Jones to advise whether Mr. Drumheller could visit him at the James River Correctional Center.

11. On January 12, 1990, Mr. Drumheller wrote Mr. Jones, advising him that his medical records had been requested from the Medical College of Virginia and asking when a good time to visit would be.

12. On January 18, 1990, Mr. Jones sent Mr. Drumheller a copy of the guidelines governing attorney visits at the James River Correctional Center.

13. On or about June 19, 1990, Mr. Jones wrote Mr. Drumheller again requesting his assistance in getting a glass eye and inquiring about the status of his case.

14. Mr. Jones was paroled on or about August 13, 1990.

15. On or about September 13, 1990, Mr. Drumheller filed a Motion for Judgment on Mr. Jones' behalf against Richmond Sheriff Andrew Winston, the City of Richmond, Edward W. Murray, Peter Decker and the Department of Corrections in the Circuit Court of the City of Richmond, which was not served at the direction of Mr. Drumheller.

16. Mr. Jones was re-incarcerated after Mr. Drumheller filed the Motion for Judgment.

17. On or about April 2, 1991, Mr. Drumheller wrote Mr. Jones at his home address in Hopewell, asking Mr. Jones to call him to discuss his case.

18. There are no documented communications between Mr. Drumheller and Mr. Jones between April 2, 1991, and September 16, 1994.

19. On September 16, 1994, Mr. Jones wrote Mr. Drumheller from the Haynesville Correctional Center, asking about the status of his case and indicating that he wanted to conclude it; Mr. Drumheller responded by letter dated September 22, 1994, asking when Mr. Jones would be eligible for parole and for directions to the Haynesville Correctional Center so that he could visit Mr. Jones.

20. Mr. Jones sent Mr. Drumheller directions to the prison by letter dated December 17, 1994, and added: "Mr. Drumheller, I would like to know honestly what you are able to do for me. I would like you to go to court as soon as possible concerning my $1,100.00."

21. Mr. Jones wrote Mr. Drumheller again on September 10, 1995, asking about the status of his case; Mr. Drumheller replied by letter dated November 16, 1995, asking Mr. Jones when he could visit him.

22. By letter dated March 23, 1996, Mr. Jones indicated that Mr. Drumheller could visit him upon request and stated, "I am getting very concerned about the handling [sic] of my case up to this point."

23. By letter dated May 21, 1996, Mr. Jones wrote Mr. Drumheller and requested a copy of his case file, stating, "I am rethinking my routes and need access to my case history. Please assist."

24. Mr. Drumheller replied by letter dated June 12, 1996, telling Mr. Jones that "[t]here is nothing to send you other than the lawsuit which I filed" and asking Mr. Jones to advise "when you are going to be released so that we might proceed with your case."

25. On July 27, 1997, Mr. Jones wrote Mr. Drumheller the following: "It has been a while and I haven't heard anything from you on the status of my lawsuit. It is my understanding that you want to settle this out of court. I do not wish to do this. I don't feel this would be in my best interest. The state is trying to charge me $300 for my glass eye . . . Mr. Drumheller, it has been over a year since I heard from you. I need to know what is going on. If you don't want to follow my wishes and take this to Court, I respectfully ask that you send me the paperwork. I will do it myself."

26. On August 29, 1997, Mr. Drumheller responded to Mr. Jones' letter, stating as follows: "I really thought you would have been 'out' by now. Please let me know when you expect to be released, paroled, etc. Also, please telephone if you can and/or advise when might have visitors and whether any advance notice is required in order to visit as I think our meeting would be helpful."

27. On December 24, 1997, Mr. Drumheller received a letter from Mr. Jones, requesting Mr. Drumheller to visit him and complaining about the breakdown in communications and "the extensive lapse of time. With all due respect sir, I have been under the impression that this whole ordeal has been some type of shenanigan."

28. On or about December 29, 1997, the Virginia State Bar received Mr. Jones' complaint against Mr. Drumheller.

29. Mr. Drumheller responded to Mr. Jones' December letter on January 7, 1998, by asking when Mr. Jones expected to be paroled and promising to try to visit Mr. Jones in the near future.

30. Mr. Jones wrote Mr. Drumheller again on January 13, 1998, indicating that he was "serious about proceeding with my case as soon as possible . . . I want this matter concluded."

31. On January 28, 1998, Mr. Drumheller wrote Mr. Jones, acknowledging receipt of the bar complaint and indicating that he had unsuccessfully tried to visit Mr. Jones on January 21, 1998.

32. On February 13, 1998, Mr. Jones wrote Mr. Drumheller, indicating that he wanted a copy of the engagement agreement and that he wanted to proceed with his lawsuit. Mr. Drumheller did not respond.

33. In August 1998, Mr. Jones was paroled.

34. On October 20, 1999, Mr. Drumheller filed an amended Motion for Judgment.

35. On November 1, 1999, Mr. Drumheller non-suited the amend Motion for Judgment without the knowledge of Mr. Jones.

36. On February 17, 2000, prior to the beginning of this hearing, Mr. Drumheller refiled the Motion for Judgment.

37. Mr. Drumheller still represents Mr. Jones in his lawsuit against former Richmond Sheriff Andrew Winston, the City of Richmond, Edward W. Murray, Peter Decker and the Department of Corrections in the Circuit Court of the City of Richmond.

38. The file on Mr. Jones' case, which was obtained from Mr. Drumheller via subpoena in January 1999, does not contain the jail incident report, any witness statements or follow-up medical reports.

NATURE OF MISCONDUCT

The Board unanimously finds that the allegations as to a violation of DR-7-101A3 were not proven by clear and convincing evidence and that the following Disciplinary Rules of the Virginia Code of Professional Responsibility have been violated by the Respondent:

DR 6-101. (A) (1) * * *

DR 6-101.(B) * * *

DR 6-101.(C) * * *

DR 7-101.(A) (1) and (2) * * *

IMPOSITION OF SANCTIONS

The Board took into consideration the instant matter, as well as the prior disciplinary record of Woodson T. Drumheller, to-wit:

(1) 1989 – Private reprimand with terms
(2) 1990 – Public reprimand
(3) 1990 – Public reprimand
(4) 1991 – Private reprimand
(5) 1992 – Public reprimand with terms
(6) 1997 – Private reprimand

Accordingly, it is ORDERED that the license to practice law in the Courts of this Commonwealth heretofore issued to Woodson T. Drumheller, Esquire, be, and the same hereby is suspended for a period of two years, effective February 17, 2000.

* * *

ENTERED this 27th day of March, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Chair

■■■

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matters of
CHARLES JEFFERSON McCALL
VSB Docket Nos. 97-033-1757 and 97-033-1987

ORDER

This matter came on January 24, 2000, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent, Charles Jefferson McCall, based upon the Certification of the Third District Subcommittee, Section III. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Eric N. Davidson, M.D., John A. Dezio, Robert C. Elliott, II, Michael A. Glasser, and Carl A. Eason, presiding.

The Virginia State Bar, by Bar Counsel Barbara Ann Williams, and the Respondent, Charles Jefferson McCall, by James R. Wrenn, Jr., presented an endorsed Agreed Disposition reflecting the terms of the Agreed Disposition.

Having considered the Certification and 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 APPLICABLE TO
VSB DOCKET NOS. 97-033-1757 AND 97-033-1987

1. From August 30, 1977, when he was admitted to the Virginia State Bar, to the present, Mr. McCall has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Mr. McCall began doing guardianship work in 1988; by 1992, Mr. McCall served as guardian, committee or, through the Veterans Administration, financial fiduciary, for approximately twenty individuals.

3. Mr. McCall initially deposited his wards' funds in account number 552-77626750 ("Account No. 6750"), his general trust account at Signet Bank.

4. In or around July 1992, Mr. McCall established account number 553-0416782 ("Account No. 6782"), a non-interest bearing guardianship account at Signet Bank.

5. At Mr. McCall's direction, some wards' funds were subsequently transferred to Account No. 6782; other wards' funds remained in Account No. 6750.

6. Mr. McCall failed to follow required record keeping procedures, including, but not limited to, maintaining trust account records reflecting which wards' funds were in which account and how much money was in each account.

7. Mr. McCall failed to use a tickler system to calendar and track filing dates for inventories and accountings required by Virginia Code § 26-12 et seq.

8. There is no evidence that Mr. McCall misappropriated any of his wards' funds; however, poor record keeping procedures caused Account Nos. 2750 and 6782 to be in and out of trust with respect to certain wards' funds during the time periods in question.

II. FINDINGS OF FACT APPLICABLE TO
VSB DOCKET NO. 97-033-1757
Complainant: VSB/Commissioner of Accounts
of Hanover County

1. Mr. McCall qualified as successor committee for the Estate of Nellie Harris, an incompetent, on April 5, 1991.

2. Mr. McCall did not file an inventory until April 21, 1993.

3. The inventory was delinquent and incomplete; three subsequent accountings were also delinquent and incomplete.

4. By letter dated January 29, 1997, the Commissioner of Accounts of Hanover County reported to the Virginia State Bar, pursuant to Virginia Code § 26-18, that Mr. McCall had failed to make the fourth required accounting.

5. On March 13, 1997, Mr. McCall filed the fourth accounting, which was approved on May 16, 1997.

6. Mr. McCall was replaced by a substitute committee, who qualified on April 30, 1997, but Mr. McCall remained responsible for filing an accounting in April 1998.

7. The accounting that Mr. McCall filed on August 24, 1998 was delinquent and incomplete; the Commissioner of Accounts did not approve the accounting until April 16, 1999, due to lack of documentation.

8. Based solely on information Mr. McCall provided pursuant to subpoena, an audit of the transactions that Mr. McCall handled as committee for Mrs. Harris between September 1, 1992 and December 1, 1995, disclosed that Account Nos. 6782 and 2750 were in and out of trust throughout the period.

III. FINDINGS OF FACT APPLICABLE TO
VSB DOCKET NO. 97-033-1987
Complainant: VSB/Commissioner of Accounts
of the City of Richmond

1. Mr. McCall qualified as guardian for Millard Bennett on August 31, 1992, and filed an inventory on December 4, 1992.

2. Mr. McCall qualified as guardian for Lorraine Edwards on January 31, 1991, and filed an inventory on June 5, 1991.

3. Mr. McCall qualified as guardian for Mary Pippin on July 8, 1992, and filed an inventory on December 4, 1992.

4. Mr. McCall qualified as guardian for Clifton Pleasants on March 12, 1991, and filed an inventory on September 16, 1991.

5. The accountings that Mr. McCall subsequently filed on these wards' behalf in the summer of 1995 were delinquent and incomplete; the Commissioner of Accounts did not approve the accountings due to lack of documentation.

6. On January 9, 1997, the Commissioner of Accounts for the City of Richmond issued five summons to Mr. McCall, as guardian for Mr. Bennett, Mrs. Edwards, Mrs. Pippin and another ward, and as trustee for Mr. Pleasants, for Mr. McCall's failure to complete accountings and provide necessary documentation; Mr. McCall did not respond to the summons in a timely manner.

7. Consequently, on February 19, 1997, five show cause orders were issued, and, pursuant to Virginia Code § 26-18, the Commissioner of Accounts for the City of Richmond notified the Virginia State Bar of Mr. McCall's failure to make required filings on behalf of Mr. Bennett, Mrs. Edwards, Mrs. Pippin, Mr. Pleasants and another ward.

8. The show cause hearings were continued three times to allow Mr. McCall to assemble the required information; on July 30, 1997, the show cause hearings were dismissed after Mr. McCall finally assembled the required information.

9. The Commissioner of Accounts for the City of Richmond approved all the accountings on January 23, 1998.

10. Based solely on information Mr. McCall provided pursuant to subpoena, an audit of the transactions that Mr. McCall handled as guardian for Mr. Bennett between September 1, 1992 and December 1, 1995, disclosed that no funds were credited to or disbursed from Account No. 2750 on Mr. Bennett's behalf, and that Account No. 6782 was out of trust with regard to funds held on Mr. Bennett's behalf from December 30, 1992 until April 29, 1993; again from April 30, 1993 until July 15, 1993; and yet again from January 31, 1994 until March 1, 1994.

11. Based solely on information Mr. McCall provided pursuant to subpoena, an audit of the transactions that Mr. McCall handled as guardian for Mrs. Pippin between September 1, 1992 and December 1, 1995, disclosed that no funds were credited to or disbursed from Account No. 2750 on Mrs. Pippin's behalf, and that Account No. 6782 was out of trust with regard to funds held on Mrs. Pippin's behalf from February 4, 1993 until April 1, 1993; again from April 13 until May 1, 1993; yet again from May 17, 1993 until July 1, 1993; and finally from July 2 until August 1, 1993.

The Board finds by clear and convincing evidence that such conduct on the part of Charles Jefferson McCall with respect to Docket Nos. 97-033-1757 and 97-033-1087 constitutes a violation of the following Rule of the Virginia Code of Professional Responsibility:

DR 6-101. (B) * * *
DR 9-102.(B) (3) * * *

DR 9-103.(A) (1), (2), (3) and (4) * * *

DR 9-103.(B) (2), (4), (5) and (6) * * *

Upon consideration whereof, it is ORDERED that the Respondent shall receive effective upon entry of this order a Public Reprimand with Terms, with the alternate sanction of a Suspension of one year and one day to be imposed if the Respondent fails to comply with any of the terms stated below. It is hereby ORDERED that the Respondent shall comply with the following terms and conditions:

Terms Relating to Guardianships and Conservatorships

1. The Respondent shall close out all matters in which he presently serves as a guardian or conservator and is required to report to a Commissioner of Accounts no later than June 30, 2000.

2. The Respondent shall not undertake to serve as a guardian or conservator in any new matters, absent modification of the Terms Relating to Guardianships by the Disciplinary Board.

3. No later than June 30, 2000, the Respondent shall deliver a certification in writing to Bar Counsel that he has complied with the terms relating to guardianships and conservatorships.

Terms Relating to Trust Accounts

1. The Respondent shall, at his own expense, retain a licensed Virginia certified public accountant to examine his trust account records from July 1, 1999 to date.

2. The certified public accountant shall, after examining the Respondent's trust account records, render a written report to Bar Counsel no later than May 15, 2000, stating that the Respondent's trust account records either comply with Disciplinary Rules 9-102 and 9-103 of the Rules of Professional Responsibility and Rule 1.15 of the Ruels of Professional Conduct, or that the trust account records do not comply with the foregoing rules.

3. If it is determined that the Respondent's trust account records do not comply with the foregoing rules, the certified public accountant shall report in writing to Bar counsel no later than May 15, 2000, the specific ways in which the Respondent's trust account records do not comply with the foregoing rules.

4. If it is determined that the Respondent's trust account records do not comply with the foregoing rules, the Respondent shall take the steps necessary to bring the records into compliance, and no later than June 30, 2000, deliver to Bar Counsel a written certification that he has done so.

5. The Respondent shall be responsible for making certain that the licensed Virginia certified public accountant he retains performs the required services and reports to Bar Counsel within the specified time frames.

The Respondent's failure to comply with any of the fore--going agreed terms will result in the imposition of the alternate sanction of a Suspension of one year and one day. The imposition of this alternate sanction will not require a hearing before the Disciplinary Board on the underlying charges of misconduct if the Virginia State Bar discovers that the Respondent has violated any of the foregoing terms and conditions. Instead, the Virginia State Bar shall issue and serve upon the Respondent a Show Cause Notice requiring the Respondent to show cause why the foregoing alternate sanction should not be imposed. The sole factual issue shall be whether the Respondent has violated any of the terms of this Agreed Disposition without legal justification or excuse. Such Show Cause Hearing shall be conducted pursuant to Disciplinary Board Rule of Procedure IV (D)(11).

* * *

ENTERED this Order this 6th day of March, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Chair

■ ■ ■

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
LAWRENCE RAYMOND MORTON, ESQUIRE
VSB Docket No. 98-053-1692

ORDER

This matter came on January 18, 2000, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent, based upon the Certification of the Fifth District Committee, Section III. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Bruce T. Clark, Esquire, Donna A. DeCorleto, lay person, John A. Dezio, Esquire, Janipher Winkfield Robinson, Esquire, and Carl A. Eason, Esquire, presiding.

Noel D. Sengel, Esquire, representing the Bar, and the Respondent, Lawrence Raymond Morton, Esquire, appearing *pro se*, presented an endorsed Agreed Disposition, reflecting the terms of the agreement between the Virginia State Bar and the Respondent.

Having considered the Certification and 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:

1. At all times relevant hereto, the Respondent, Lawrence Raymond Morton, Esquire (hereinafter Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. In the fall of 1994, the Respondent was appointed by the court to represent James Lawson, the Complainant, on two (2) felony drug charges. The Complainant was acquitted on the charge of distribution of cocaine but convicted of possession with intent to distribute.

3. When the Respondent learned that the Complainant wanted him to file an appeal, the Respondent filed a Motion for Extension of Time to File a Petition for Appeal. The Motion was granted and the Respondent was given until November 21, 1994 to file the petition.

4. However, the Respondent did not file the petition on time. It was filed on November 23, 1994, and denied on November 29, 1994.

5. The Respondent never informed the Complainant of the dismissal of the petition, nor of the Complainant's right to file a Writ of Habeas Corpus. The Respondent also did not respond to the Complainant's request for a copy of his trial transcript.

Aggravating factors recognized by the ABA include the following:

The Respondent has a prior disciplinary record.

The Board finds by clear and convincing evidence that such conduct on the part of Lawrence Raymond Morton, Esquire, constitutes a violation of the following Rule(s) of the Virginia Code of Professional Responsibility:

DR 6-101 (B), (C), and (D) * * *

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

Upon consideration hereof, it is ORDERED that the Respondent shall comply with the following terms and conditions by June 30, 2000:

1. The Respondent shall complete six (6) hours of continuing legal education in the areas of law office management and ethics in addition to the mandatory continuing legal education hours required to maintain his license to practice law in the Commonwealth of Virginia. Upon completion of such term, the Respondent shall so certify in writing to the Assistant Bar Counsel assigned to this case.

Upon satisfactory proof that the above-noted terms and conditions have been met, a Public Reprimand shall then be imposed, and this matter shall be closed. If, however, the terms and conditions have not been met by June 30, 2000, a ninety day suspension of the Respondent's license to practice law in the Commonwealth of Virginia shall be imposed. The imposition of this alternate sanction will not require a hearing before the Board on the underlying charge of misconduct if the Virginia State Bar discovers that the Respondent has violated any of the foregoing terms and conditions. Instead, the Virginia State Bar shall issue and serve upon the Respondent a Notice of Show Cause requiring the Respondent to show cause why the foregoing alternate sanction should not be imposed. The sole factual issue shall be whether the Respondent has violated any of the terms of this Agreed Disposition without legal justification or excuse. Such Show Cause Hearing shall be conducted pursuant to the Disciplinary Board Rule of Procedure IV(D)(11).

* * *

ENTERED this Order this 24th day of March, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Chair

■■■

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

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
EVERETT MICHAEL MYERS
VSB Docket No. 98-010-1787

ORDER

On February 18, 2000, the above-referenced matter was heard by the Virginia State Bar Disciplinary Board pursuant to Notice served upon the Respondent in the manner provided by the Rules of the Supreme Court of Virginia.

WHEREFORE, upon consideration of the testimony and documentary evidence, it is ORDERED that Respondent's license to practice law in the Commonwealth of Virginia is suspended for a period of two (2) years, effective February 18, 2000.

The Board notes for the record in this matter that the Respondent was present in person and was advised of the imposition of the sanction and the effective date of the sanction; and that the Board shall issue a written opinion in this matter which, when issued, shall be attached hereto and incorporated herein by reference.

Pursuant to Part Six, § IV, ¶ 13(K)(10) of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess costs.

* * *

ENTER this Order this 18th day of February, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
by Michael A. Glasser, Acting Chair

■■■

District Committee

BEFORE THE SIXTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
ANDREA KIMBERLY AMY-PRESSEY
VSB Docket No. 99-060-1749

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND)

On August 16, 1999, a hearing in this matter was held before a duly convened Sixth District Committee panel consisting of Karen M Vannan, Esquire, L. Willis Robertson, Jr., Esquire, Meg Bohmke, Kenneth E. Smith, William E. Glover, Esquire, Michael T. Soberick, Esquire, with Gregory R. Davis, Esquire, presiding.

The Respondent, Andrea Kimberly Amy-Pressey, appeared in person pro se. Assistant Bar Counsel, Dorothy M. Pater, represented the Virginia State Bar. A hearing was conducted and, pursuant to Part Six: §IV, ¶13(B)(7)(b) of the Rules of the Supreme Court, the Sixth District Committee served upon the Respondent on August 30, 1999 a Private Reprimand with Terms.

Pursuant to Part Six: §IV, ¶13(B)(7) of the Rules of the Supreme Court, a hearing was subsequently held on March 7, 2000, in which the Respondent was required to show cause why the alternate disposition should not be imposed. The panel consisted of Karen M. Vannan, Esquire, L. Willis Robertson, Jr., Esquire, Meg Bohmke and Kenneth E. Smith, with Gregory R. Davis, Esquire, presiding.

The Respondent appeared in person pro se, and Dorothy M. Pater, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar.

Upon evidence and argument presented, the Sixth District Committee found that the Respondent did not produce clear and convincing evidence that she had complied with the first term and hereby issues the following Public Reprimand.

I. FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Andrea Kimberly Amy-Pressey, was an attorney licensed to practice law in the Commonwealth of Virginia.

2. On or about June 18, 1996 (or some time thereafter), Ms. Amy-Pressey acted as the settlement agent in a real estate closing on property located at 119 Richneck Road, Newport News, Virginia, which the purchaser, Rosetta Turner, had agreed to purchase from the sellers, Phillip and Florence Stanford. Ms. Amy-Pressey represented both the purchasers and the sellers at the closing.

3. The settlement statement, which was prepared by Ms. Amy-Pressey, erroneously charged the sellers $6,130 for the real estate commission, instead of $6,630 (which resulted in an overpayment in the amount of $500 to the sellers after the closing). Moreover, the purchaser overpaid $700 in funds. After the closing took place, Ms. Amy-Pressey failed to ensure that the purchaser received the $700 in excess funds she was entitled to receive until an investigator for the Virginia State Bar visited Ms. Amy-Pressey on February 3, 1999 and pointed out that the trust account subsidiary ledger pertaining to the closing disclosed that the purchaser was owed additional money.

4. The subsidiary ledger incorrectly showed that the purchaser was owed only $200 instead of $700 because the sellers had been given an overpayment of $500. Subsequently, on February 3, 1999, Ms. Amy-Pressey sent Ms. Turner a trust account check in the amount of $200. However, Ms. Amy-Pressey did not reimburse Ms. Turner for the additional $500 which was owed to her.

5. The settlement statement pertaining to Ms. Turner's closing did not contain an entry with respect to a real estate tax proration.

II. NATURE OF MISCONDUCT

Such conduct by the Respondent, as set forth above, constitutes Misconduct in violation of the following Disciplinary Rules of the Revised Virginia Code of Professional Responsibility:

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

DR 6-101(B) * * *

III. PUBLIC REPRIMAND

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

* * *

SIXTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By Gregory R. Davis, Committee Chair
Certified March 13, 2000

■ ■ ■

BEFORE THE FIFTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
JEFFREY PETER O'CONNELL
VSB Docket No. 98-051-1623

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND)

On February 15, 2000, a hearing in this matter was held before a duly convened Fifth District Committee panel consisting of Richard C. Baker, Esq., Fred M. Haden, Esq., Stephen H. Ratliff, Esq., Thomas P. Sotelo, Esq., Daniel M. Rathbun, Esq., Douglas N. Elliott, Virginia S. Williams, and Lawrence H. Daughtrey, Esq., presiding. The Respondent, Jeffrey Peter O'Connell, Esq., did not appear. Noel D. Sengel, Senior Assistant Bar Counsel, appeared as counsel for the Virginia State Bar.

Previously, on April 7, 1999, a subcommittee imposed a Private Reprimand with Terms in accordance with an Agreed Disposition between Respondent and Bar Counsel. Pursuant to Council Rule of Disciplinary Procedure IV (C), the February 15, 2000, hearing was held to require the Respondent to show cause why the alternative disposition should not be imposed for failure to comply with the terms imposed by the aforesaid disposition. Upon evidence and argument presented, the Fifth District Committee, finds that the Respondent was duly noticed of this hearing by a certified mailing, return receipt requested, to his last address of record with the Virginia State Bar, and that not all of the terms of the Disposition dated April 7, 1999, specifically terms one and two, were fulfilled. Accordingly, the Committee hereby issues the following Public Reprimand.

I. FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Jeffrey Peter O'Connell, Esq. (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On July 22, 1997, the Complainant, Kathleen Moffitt, hired the Respondent to represent her in a dispute with her former employer over a 401K plan. The Fee Agreement that the Complainant signed called for an "engagement fee" of $450.00. On July 25, 1997, the Complainant paid the Respondent $475.00, which included $25.00 for estimated expenses. At the time the Complainant hired the Respondent, the Respondent had been in the private practice of law as a solo practitioner for less than a year.

3. Between July and early October of 1997, the Respondent did not inform the Respondent of what progress he had made on the case. The Complainant alleges that the Respondent did not return her phone calls. The Respondent states he talked with the complainant on more than one occasion and attempted to communicate with the Complainant by telephone on others, but was not successful. On October 14, 1997, the Complainant mailed a certified letter to the Respondent requesting the return of her fee and her documents within ten days. The Respondent did not respond to the letter. On October 31, 1997, the Complainant filed a complaint with the Virginia State Bar.

4. The Respondent states that after being contacted by the Virginia State Bar intake office, he mailed the Complainant a refund and all of the documents she had provided to him. The Respondent alleges that he did so by letter dated January 5, 1998. The Complainant never received that letter or its contents from the Respondent, and filed a warrant in debt against the Respondent.

5. On March 13, 1998, after notice to the Respondent, the Complainant won a default judgment against the Respondent in Small Claims Division of the Fairfax General District Court for the amount of $475.00 with interest from March 13, 1998 at 9% until paid, plus $30.00 costs. On April 13, 1998, the Complainant filed a garnishment summons against the Respondent for the amount of $583.00.

6. By letter dated May 5, 1998, the Respondent informed the Virginia State Bar that he had mailed the Complainant a check for $505.00 that day, and enclosed a copy of the check.

7. By letter dated May 13, 1998, the Complainant informed the Virginia State Bar that she had received an unsigned check from the Respondent for less than the amount she believed owed. The Complainant did not inform the Respondent of the problems with the check.

8. After being contacted by the Virginia State Bar investigator on November 1, 1998, the Respondent, by letter dated November 17, 1998, sent the Complainant a refund in the amount of $512.12, and told her she could arrange a time to pick up copies of her documents.

II. NATURE OF MISCONDUCT

Such conduct by the Respondent, as set forth above, constitutes Misconduct in violation of the following Disciplinary Rules of the Revised Virginia Code of Professional Responsibility.

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

DR 6-101. (B) and (C) * * *

DR 2-108. (D) * * *

III. PUBLIC REPRIMAND

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

FIFTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By Lawrence H. Daughtrey, Chair
Certified February 29, 2000

* * *

■■■

BEFORE THE FOURTH DISTRICT – SECTION I
SUBCOMMITTEE OF THE VIRGINIA STATE BAR

In the Matter of
JAMES BRYAN PATTISON
VSB Docket No. 99-041-1377

SUBCOMMITTEE DETERMINATION
PUBLIC REPRIMAND

On March 6, 2000, a meeting in this matter was held before a duly convened Fourth District Subcommittee, Section I, consisting of Jerry K. Emrich, Esq., Elizabeth J. Grove, and Leo R. Andrews, Jr., Esq., presiding.

Pursuant to Part 6, § IV, ¶ 13(B)(5) of the Rules of the Supreme Court, a Fourth District Subcommittee, Section I, of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand:

I. FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, James Bryan Pattison (hereinafter Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On August 10, 1998, the Respondent was representing a defendant charged with the offense of Indecent Exposure.

3. On that date, the case was set for trial in the General District Court for the County of Arlington, Virginia.

4. One of the primary issues in the case was identification of the perpetrator. When the case was called for trial to begin, the Respondent brought the man who was named in the warrant, who was the brother of the man who was served with the warrant, to the front of the courtroom and had this individual sit at counsel table. The Respondent had instructed his client to remain in the back of the courtroom and not come forward.

5. The Respondent allowed the trial to begin without informing the Judge about his attempt to exploit the misnomer in the warrant, saying only, "my client pleads 'not guilty'." The victim of the offense was called to testify, and when asked to identify the perpetrator, identified the man who had been served with the warrant, who was still sitting in the rear of the courtroom. The Assistant Commonwealth's Attorney moved to dismiss the charges believing that the victim had misidentified the offender. The court dismissed the case.

6. The Commonwealth Attorney's Office then had a warrant issued with the same misnomer, and again served it upon the brother of the man in whose name the warrant was issued.

7. After determining that the Respondent may have perpetrated a fraud on the court, the General District Court issued a Rule to Show Cause against the Respondent.

8. On October 28, 1998, Judge Karen Henenberg of the Arlington County General District Court found the Respondent in Contempt of Court. Judge Henenberg sentenced the Respondent to ten (10) days in jail with nine (9) days suspended on the condition that the Respondent perform one hundred (100) hours of Pro Bono legal work.

Mitigating factors recognized by the ABA include absence of a prior disciplinary record, a cooperative attitude towards these proceedings and sanctions being imposed by the Arlington County General District Court.

II. NATURE OF MISCONDUCT

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

DR 1-102.(A) (4) * * *

DR 7-102.(A) (3) and (7) * * *

III. PUBLIC REPRIMAND

Accordingly, it is the decision of the subcommittee that the Respondent be, and hereby is, PUBLICLY REPRIMANDED for his action.

FOURTH DISTRICT – SECTION I SUBCOMMITTEE
OF THE VIRGINIA STATE BAR
By Leo R. Andrews, Jr., Chair
Certified March 8, 2000

■■■