

## VSB Leaders Examine Public Protection Efforts

Leaders of the Virginia State Bar's efforts to protect people from unscrupulous lawyers met in Portsmouth in July for the first-ever Public Protection Conclave.

VSB President Manuel A. Capsalis made reference to alleged recent defalcations by Virginia lawyers that exceed \$10 million. "The question properly framed ... is whether we can do a better job," he said to the participants.

VSB Executive Director Karen A. Gould reminded the group that "the bar's primary mission is protection of the public."

Present were volunteer lawyers with an interest in public-protection issues, as well as staff attorneys from the VSB executive and professional regulation staffs.

Capsalis convened the conclave the morning of the VSB's annual Disciplinary Conference on July 11 to discuss how the bar protects the public and where improvements can be made. He foresees the possibility of ongoing meetings — annually or more frequently — to assess how well the VSB is meeting its public protection mission.

Ideas discussed during the meeting included:

- Payee notification. This issue again is under study by the VSB Public Protection Task Force in the wake of the receivership of a Woodbridge lawyer who is suspected of having stolen at least \$4 million in insurance money from hundreds of clients. The receiver in the case

found evidence that payee notification could have reduced the losses. A previous proposal — considered and defeated 7–54 by the VSB Council in October 2007 — would have sought statutory requirement for insurance companies to notify third-party claimants or judgment creditors when the companies issue settlement checks to claimants.

- Random audits or less formal reviews of attorney trust accounts. In states where these are conducted, the audits educate lawyers, deter them from theft, and occasionally catch wrongdoers. A subcommittee of the VSB Committee on Lawyer Discipline is studying random audits.
- Quicker resolution of disciplinary matters and accountability to victims, complainants, and witnesses.
- A possible fast-track process for embezzlement receiverships. The former Receivership Task Force could be reconstituted to deal with these issues and the possibility of statutory authority for a less formal receivership when a lawyer dies or becomes disabled.
- Mandatory participation by lawyers in fee dispute resolution, which is rarely used.

- Providing pro bono assistance to clients who are victims of lawyer defalcations, to assist them through the Clients' Protection Fund application process.
- Requiring lawyers to carry a universal fidelity bond that would protect clients from defalcation.
- Better publicity about what the VSB does to protect clients and contact information so the public can access the assistance.
- Increased diversity in the legal profession, including the VSB volunteers and staff, so the bar can be more responsive to society.
- More support for lawyers who suffer from substance abuse and mental illness. Suggestions included education of law firms in how to intervene, working with the Conference of Local Bar Associations to provide more local assistance, and requiring mandatory continuing legal education on stress and life balance.

Capsalis said the VSB will study the suggestions made during the conclave. "I believe we were able to create a very good template for better and more efficiently providing public protection," he stated in an e-mail to participants.



### Mandatory Continuing Legal Education MCLE DEADLINE: October 31, 2008

Failure to complete twelve CLE hours including two hours in ethics/professionalism by October 31, 2008, will result in a \$100 non-compliance fee. (See the Rules of the Supreme Court of Virginia Part 6, Section IV, Paragraph 19.)

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