

VIRGINIA:

IN THE CIRCUIT COURT FOR JAMES CITY COUNTY
THE CITY OF WILLIAMSBURG

JAN 29 2012

VIRGINIA STATE BAR EX REL
SIXTH DISTRICT COMMITTEE

Complainant,

v.

Case No. CL11-1027

BAMBI F. WALTERS

Respondent.

MEMORANDUM ORDER
(TWO YEAR SUSPENSION WITH TERMS)

THIS MATTER came to be heard on December 29, 2011 by duly noticed teleconference upon a proposed agreed disposition entered into between the parties, which was presented to a Three-Judge Court duly impaneled pursuant to Section 54.1-3935 of the Code of Virginia, 1950, as amended, consisting of The Honorable Margaret Poles Spencer, Judge of the Thirteenth Judicial Circuit, Chief Judge presiding (“Chief Judge”), The Honorable John C. Morrison, Jr., Retired Judge of the Fourth Judicial Circuit, and the Honorable Joseph E. Spruill, Jr., Retired Judge of the Fifteenth Judicial Circuit (“Panel”). The Virginia State Bar appeared through Deputy Bar Counsel Kathryn R. Montgomery. The respondent, Bambi Faivre Walters (“Respondent”) was present and represented by counsel Craig S. Cooley, Esquire.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, applicable to this proceeding pursuant to §54.1-3935(B) of the Code of Virginia, 1950, as amended, the bar and Respondent entered into a written proposed agreed disposition and presented same to the Panel for its consideration.

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

The Panel heard argument from the parties and thereafter retired to deliberate on the agreed disposition. Having considered all the evidence before it, the Panel reconvened and announced its acceptance of the agreed disposition by majority vote.

I. FINDINGS OF FACT

The Panel finds the following facts by clear and convincing evidence as stipulated by the parties:

1. Respondent has never been licensed to practice law in Virginia.
2. On or about October 10, 1997, Respondent was licensed to practice law in Louisiana.
3. Respondent has been ineligible to practice in Louisiana as follows: MCLE ineligible July 24, 2008 through March 11, 2010, dues and assessment ineligible September 9, 2009 through December 21, 2009, and trust ineligible November 3, 2009 through December 22, 2009. Respondent was suspended from the practice of law in Louisiana for nine months beginning October 29, 2010, which is reciprocal discipline based on a suspension of her North Carolina law license.
4. On or about September 8, 1999, Respondent registered as an attorney with the United States Patent and Trademark Office.
5. On or about March 18, 2000, Respondent was licensed to practice law in North Carolina.
6. Respondent's North Carolina license was suspended for nine months beginning December 15, 2009. The suspension affected only her ability to appear before trial and appellate courts of the General Courts of Justice of the State of North Carolina.
7. On or about March 1, 2009, Rule 8.5 of the Virginia Rules of Professional Conduct was amended to provide as follows:

RULE 8.5 Disciplinary Authority; Choice Of Law

- (a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in Virginia is also subject to the disciplinary authority of Virginia if the lawyer provides, holds himself out as providing, or offers to provide legal services in Virginia. By doing so, such lawyer consents to the appointment of the Clerk of the Supreme Court of Virginia as his or her agent for purposes of notices of any disciplinary action by the Virginia State Bar. A lawyer may be subject for the same conduct to the disciplinary authority of Virginia and any other jurisdiction where the lawyer is admitted.
8. On or about August 19, 2008, Respondent formed and registered with the Virginia State Corporation Commission the professional corporation Walters, PC, Bambi Faivre. On or about May 8, 2009, Respondent's law firm was registered with the Virginia State Bar as a professional law corporation.
 9. From approximately September 5, 2008 until April 10, 2009, Respondent had an office named "Bambi Faivre Walters, PC" at 1386 Jamestown Road, Williamsburg, VA 23185. On or about April 5, 2009, Bambi Faivre Walters, PC entered a lease for 1201 Jamestown Road, Williamsburg, VA 23185 and opened this location in April 2009.
 10. Respondent has had a systematic and continuous presence in Virginia for the practice of law. Respondent had both an office in Virginia and an office in North Carolina as of March 1, 2009.
 11. On or about December 20, 2009, Linda M. Quigley, Esquire filed an inquiry with the Virginia State Bar alleging that Respondent had been practicing Virginia law without a license and that she had lied to Ms. Quigley and clients about being licensed by the Virginia State Bar.
 12. On or about December 21, 2009, Respondent filed a Virginia State Bar intake form.

Bar's Allegations Regarding Dishonesty with Colleagues and Staff

13. Linda M. Quigley is the complainant in this matter. Ms. Quigley is a member of the Virginia State Bar, having been licensed on October 17, 2007.
14. Respondent's firm extended to Ms. Quigley an offer of employment. Ms. Quigley's first day of work was on or about April 13, 2009. Ms. Quigley received a salary while in the firm's employ.

15. According to Ms. Quigley, until mid-December 2009, Ms., Quigley believed that Respondent was a member of the Virginia State Bar.
16. From approximately June 24, 2009 through August 4, 2009, Ms. Quigley was in Spain managing an academic program. During this time, Ms. Quigley remained an employee of Respondent's firm and worked on legal matters for Respondent and Respondent's clients.
17. According to Ms. Quigley, on or about December 17, 2009, Respondent's former law partner in North Carolina called Ms. Quigley and talked to her about Respondent.
18. Following her conversation with the former law partner, Ms. Quigley approached Respondent about the disciplinary action in North Carolina and the status of Respondent's law licensures.
19. On or about December 20, 2009, Ms. Quigley filed an inquiry with the Virginia State Bar alleging that Respondent was engaged in the unauthorized practice of law and misrepresentation.
20. Ms. Quigley left Respondent's law firm in late December 2009.
21. In or about January 2010, Respondent sent letters to her clients advising that she was not a member of the Virginia State Bar.

Bar's Allegations Regarding Advertising Violations

Firm Brochure

22. In the late fall of In December 2009, Respondent's law firm printed firm brochures, some of which were distributed. The brochure contained biographies of Respondent and Ms. Quigley. Respondent's biography stated that she was admitted to the Virginia State Bar, although Respondent has never been licensed to practice law in Virginia.

Firm Letterhead

23. Respondent's firm stationery used by Respondent since April 2009 does not make clear the jurisdictional limitations of Respondent's law practice.

Law Office Signage

24. The signage at Respondent's law office at 1201 Jamestown Road, Williamsburg, Virginia 23885 did not make clear the jurisdictional limitations of Respondent's law practice.

Internet Advertisements

25. Respondent's firm profile appeared on the website Nolo.com as of December 28, 2009. The profile indicated that one of the attorneys had been a member of the Virginia State Bar since 1986 and that the Virginia State Bar license number is 26190. In fact, that license number belongs to another Virginia lawyer who also practices law in Williamsburg. Respondent does not know how long the incorrect Nolo.com profile was up before it was corrected. After Respondent received Ms. Quigley's complaint from the Virginia State Bar that the Nolo.com profile contained erroneous and/or misleading information, on or about December 31, 2009 Respondent contacted Nolo.com to correct the profile.
26. Respondent's profile appeared on the website LinkedIn.com as of December 28, 2009. Respondent's LinkedIn profile stated that she was a member of the Virginia State Bar, although Respondent has never been licensed to practice law in Virginia. Respondent believes that the LinkedIn profile was cut and pasted from the draft copy of the prepared firm brochure to create the LinkedIn profile in November 2009. On December 31, 2009, after Ms. Walters received Ms. Quigley's complaint from the Virginia State Bar that the LinkedIn.com profile contained erroneous information, Respondent corrected her LinkedIn.com profile.

Bar's Allegations Regarding the Unauthorized Practice of Law

Representation of Reginald B. Cheatham, Sr.

27. On or about May 20, 2009, Respondent began representing Reginald B. Cheatham, Sr. ("Reginald Cheatham"). Ms. Quigley also represented Mr. Cheatham.
28. Respondent does not recall informing Mr. Cheatham that she was not licensed to practice law in Virginia. Respondent recalls informing Mr. Cheatham that Ms. Quigley would be assisting Respondent on the case. Respondent and Ms. Quigley each filled out separate admission forms with the Virginia State Corporation Commission to represent Mr. Cheatham.
29. After Ms. Quigley spoke with Respondent's former law partner on or about December 17, 2009, Respondent and Ms. Quigley called Mr. Cheatham to seek authorization to change the attorney of record on his case before the State Corporation Commission to Ms. Quigley. Mr. Cheatham authorized the change and later he authorized a change of counsel on his trademark application filed with the State Corporation Commission.

30. During the course of the representation, Respondent advised Reginald Cheatham on the following areas of law: Virginia law, federal law (pending USPTO trademark application), federal law (involving FISH ON mark assertion of infringement and negotiations.)
31. Respondent and Ms. Quigley performed legal work on Reginald Cheatham's matters, including the Virginia trademark matter.
32. Respondent and Ms. Quigley collaborated on all legal work conducted for Reginald Cheatham.
33. Pursuant to 5 VAC 5-20-30, an attorney not admitted in Virginia may only appear before the Virginia State Corporation Commission in association with a member of the Virginia State Bar. The Virginia lawyer must be counsel of record for every purpose related to the conduct and disposition of the proceeding.
34. From in or about August 2009 to December 2009, Respondent signed all pleadings as counsel of record for Reginald B. Cheatham, Jr. in an adversarial proceeding before the Virginia State Corporation Commission styled *Fish on Bait & Tackle, Inc. v. Reginald B. Cheatham, Sr.*, case number SEC-2009-00070.
35. Respondent did not inform opposing counsel in *Fish on Bait & Tackle, Inc. v. Reginald B. Cheatham, Sr.* that she was not licensed to practice law in Virginia. Respondent and the opposing counsel were both members of the Greater Richmond Intellectual Property Lawyers Association and the opposing counsel is a past officer of the Association. Ms. Walters submits that she had disclosed to the Association the states where she was licensed.
36. Examples of Respondent's provision of legal services to Reginald Cheatham on Virginia matters include, but are not limited to:
 - a. On or about June 3, 2009, Respondent prepared and filed a trademark application in the Virginia State Corporation Commission on Reginald Cheatham's behalf.
 - b. On or about June 13, 2009, Respondent sent a cease and desist letter on behalf of Reginald Cheatham.
 - c. On or about July 13, 2009, Respondent sent an electronic message to Edward Nunes, who was a law student working as a paralegal in Respondent's office, instructing him on work to be done on Reginald Cheatham's case in the Virginia State Corporation Commission in preparation for her meeting with Reginald Cheatham about the matter.

- d. On or about July 15, 2009, Respondent sent an electronic message to Edward Nunes instructing him on strategy and arguments to be made to the Virginia State Corporation Commission on behalf of Reginald Cheatham.
- e. On or about August 5, 2009, Respondent sent Reginald Cheatham an electronic message that contained legal advice concerning his trademark with the Virginia State Corporation Commission.

- f. On or about August 6, 2009, Respondent filed in the Virginia State Corporation Commission and served on opposing counsel a Response to Petition to Cancel Service Mark Registration.
- g. On or about August 19, 2009, Respondent provided Reginald Cheatham with legal advice regarding his trademark with the Virginia State Corporation commission. Later she sent him an electronic message with further advice and status updates.
- h. On or about September 9, 2009, Respondent sent Linda Quigley an electronic message instructing her on work to be done on Reginald Cheatham's trademark case pending at the Virginia State Corporation Commission.
- i. On or about September 9, 2009, Respondent sent Reginald Cheatham an electronic message giving him legal advice concerning his case before the Virginia State Corporation Commission.
- j. On or about September 15, 2009, Respondent sent Reginald Cheatham an electronic message giving him legal advice concerning his case before the Virginia State Corporation Commission.
- k. On or about September 21, 2009, Respondent filed in the Virginia State Corporation Commission a Supplemental Response on behalf of Reginald Cheatham. On or about October 9, 2009, Respondent filed a Confidentiality Agreement, signed by her as attorney. On or about December 14, 2009, Respondent filed a Brief in Lieu of Presence at Hearing. On or about December 19, 2009, Linda Quigley filed a Motion to Substitute Counsel.
- l. On or about October 6, 2009, Respondent sent Reginald Cheatham an electronic message giving him legal advice concerning his case before the Virginia State Corporation Commission and concerning settlement.
- m. On or about October 25, 2009, Respondent sent Reginald Cheatham an electronic message giving him legal advice concerning federal trademark

issues and trademark issues pending before the Virginia State Corporation Commission.

- n. On or about November 26, 2009, Respondent sent Reginald Cheatham an electronic message discussing discovery in his case pending before the Virginia State Corporation Commission.
- o. On or about December 11, 2009, Respondent sent Ms. Quigley an email regarding the Written Brief in Lieu of Presence at Hearing, with attached redlined draft of the brief.

Virginia Chapter of the Police Unity Tour/Law Enforcement United, Inc.

- 37. On or about August 25, 2009, Respondent's firm was retained by the Virginia Chapter of the Police Unity Tour and sent a letter of engagement.
- 38. Respondent does not recall advising Marc Stedman or Kelly Cross of the Virginia Chapter that she was not a member of the Virginia State Bar. Respondent recalls advising them that she could not do the Virginia entity formation work and that Ms. Quigley would have to do this. In mid-December, after Linda Quigley announced she was leaving Respondent's firm, Respondent talked with Marc Stedman and Kelly Cross about her licensure and inquired whether they wanted to stay with her firm or go with Ms. Quigley to her new firm.
- 39. Respondent and Linda Quigley both performed legal work on this matter, with Respondent supervising some of Ms. Quigley's work and collaborating on some of Ms. Quigley's work.
- 40. Respondent and Linda Quigley had meetings with Marc Stedman and Kelly Cross in which they discussed closing the Virginia chapter and forming a new entity.
- 41. On or about August 2009, Respondent's firm opened an IOLTA account with SunTrust Bank. Respondent's firm did not have an open trust account, although one had previously been opened in 2008 for the firm but eventually closed because the account was unfunded. In August 2009, Respondent opened the trust account for a client who was a resident of North Carolina involved in a minor traffic accident. Later, Respondent deposited into this trust account the funds of the PUT Virginia chapter.

Representation of Deborah J. Mazarella, Psy.D.

- 42. On or about November 21, 2009, Respondent was retained by and sent an engagement letter to Deborah J. Mazarella, Psy.D.

43. Respondent and Linda Quigley performed legal work on this matter, with Respondent supervising some of Ms. Quigley's work. Ms. Mazzarella provided testimony that Respondent advised her that she was not admitted to the Virginia State Bar.
44. On or about December 2, 2009, Linda Quigley filed papers with the Virginia State Corporation Commission to incorporate Tier Support, Inc. on behalf of Deborah Mazzarella.

Representation of Williamsburg Warriors Lacrosse Club[e], Inc.

45. On or about July 10, 2009, Respondent filed an application for registration of a trademark or service mark with the Virginia State Corporation Commission for the mark "Battle of Williamsburg" for the Williamsburg Warrior Lacrosse Club, Inc., filed by Respondent. Respondent was a volunteer Board of Director for the Williamsburg Warrior Lacrosse Club, Inc. from approximately 2008 through 2010.
46. On or about December 21 and 22, 2009, Linda Quigley sent two letters to the Virginia State Corporation Commission requesting that the attorney of record for the service mark Battle of Williamsburg be changed to Linda Quigley.
47. Respondent served on the Bylaws Committee and was involved with at least three other committee members with the drafting of the bylaws for Williamsburg Warriors Lacrosse Club, Inc.
48. The Virginia State Corporation Commission previously listed Respondent as the registered agent for Williamsburg Warriors Lacrosse Club, Inc. Respondent was listed as "attorney" with the Virginia State Corporation for her status as registered agent.

Lawsuit Against Former Client Jay Kriss

49. On or about August 6, 2009, Respondent filed suit in the General District Court for Williamsburg/James City County against her former client Jay Kriss for \$15,000 in attorneys' fees. The plaintiff in the suit was "Bambi Faivre Walters, PC."
50. On or about September 18, 2009, Respondent filed a bill or particulars in the suit on behalf of "Bambi Faivre Walters, PC." The bill of particulars starts with the statement, "the Plaintiff, Bambi Faivre Walters, P.C., by counsel, files this Bill of Particulars."

51. Pursuant to Virginia Code § 16.1-88.03(B), a non-lawyer is not permitted to file a bill of particulars on behalf of any entity.
 52. On or about February 24, 2010, Jay Kriss filed a motion for summary judgment on the basis that the bill of particulars filed by Respondent was a nullity.
 53. On or about March 1, 2010, summary judgment was granted and Respondent's suit against Jay Kriss was dismissed.
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Bar's Allegations Regarding Misappropriation of Client Funds

Funds Belonging to
the Virginia Chapter of the Police Unity Tour

54. On or about August 2009 Respondent opened an IOLTA account with SunTrust Bank in the name of Bambi Faivre Walters, PC. The trust account was set up in August 2009 to receive funds for an out-of-state client. Respondent later depositing into the account funds of the Virginia chapter of the Police Unity Tour.
55. Respondent agreed to handle the funds of the PUT Virginia chapter to assist in winding down the entity and returning funds to the national chapter. The bylaws of the national chapter required that 95% of the net funds be returned. Many bills had to be paid. Donors and members were demanding return of funds. The Virginia Chapter revealed that they had done fundraising and comingled the new entity's assets with the assets of the Virginia Chapter.
56. Some of the funds deposited into the trust account were advanced legal fees for IRS fees. In September 2009, Respondent deposited a total of \$54,600 into this account. Of these, approximately \$5,600 was settlement proceeds for the out-of-state client, of which Respondent was entitled to a one-third contingency. The remaining \$49,000 was the property of the Virginia chapter of the Police Unity Tour, donors seeking a refund, members requesting a refund, National PUT, and/or Law Enforcement United.
57. Throughout the fall of 2009, Respondent distributed the funds of the Virginia Chapter in accordance with instructions received from the Virginia Chapter, donors, the National Chapter, and members.
58. Linda Quigley, Sarah Kaczmarek, and Bambi Walters worked on this matter with an outside accountant, CPA Susan Roher, who was auditing the account. At the time, Ms. Quigley and Ms. Kaczmarek were employees of the firm. The accountant was not.

59. The following persons had access information related to Respondent's trust account: Sarah Kaczmareck, Lori Williams (access limited to opening mail, including IOLTA statements), Jamie Keegan, Tammy Williams, CPA Susan Roher, and Linda Quigley.
60. Sarah Kaczmareck matched disbursements with invoices received and approved by the client. Sarah Kaczmareck assisted with writing checks from the IOLTA. Respondent submits that Ms. Kaczmareck, Ms. Quigley, Ms. Walters, and Jamie Keegan also matched disbursements with invoices.
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61. On or about December 8, 2009, Respondent withdrew \$3,000 from the account and deposited it into the operating account for the firm. On or about December 23, 2009, Respondent withdrew another \$3,000 from the account and deposited it into the operating account for the firm.
62. On or about January 15, 2010, Sarah Kaczmareck sent an email to Respondent asking for clarification on the two December withdrawals of \$3000 and Respondent sent an email to Sarah Kaczmareck in response.
63. On or about January 21, 2010, Respondent transferred \$6000 from her firm's operating account to the trust account for the Virginia chapter of the Police Unity Tour.

No Trust Account or Trust Account Records

64. From approximately March 1, 2009 to August 2009, Respondent did not have any form of a trust account.
65. Respondent deposited funds for the following persons/entities into the trust account, the Virginia Chapter of the Police Unity Tour, the firm's out-of-state personal injury client, the Virginia Investors Forum, and LEU. Respondent did not deposit money from other clients into the trust account.
66. Despite not having a trust account, on or about May 20, 2009, Respondent sent client Reginald Cheatham an engagement letter that included the following provision:

Retainers. The Firm requires a "retainer" of approximately \$1000 (one thousand us dollars and no cents) to begin working on your matters. If the total amount of work is less than \$1000, then we will adjust this retainer amount. The retainer is deposited in our trust account and is applied from time to time to outstanding statements for services rendered and expenses incurred, or in our discretion credited to statements when rendered. Any amounts not so applied or credited after our engagement has been

terminated or completed will be returned to the Client. We also reserve the right to request and appropriate retainer during the course of our engagement under other circumstances. Our trust account is an "IOLTA" account maintained in accordance with applicable guidelines of the State Bar, and neither we nor the client may earn interest on that account. We are pleased to provide our clients with information about the IOLTA program upon request. [Emphasis added.]

67. Respondent deposited advanced legal fees and costs received from some new clients into her firm's operating account. Existing clients typically were not required to pay advanced legal fees or costs.
68. From at least March 1, 2009 to the time Linda Quigley left the firm in late December 2009, Respondent collected from some new clients advanced legal fees before performing any work. The advanced legal fees were deposited into the operating account.
69. Respondent's firm's operating account was overdrawn several times, including but not necessarily limited to:
 - 4 days in April 2009
 - 4 days in June 2009
 - 4 days in September 2009
 - 2 days in October 2009
 - 2 days in January 2010
 - 6 days in February 2010
 - 1 day in March 2010
 - 2 days in May 2010
70. On or about March 17, 2011, the bar issued a subpoena *duces tecum* to Respondent for "copies of all trust account records from March 1, 2009 to the present. Such records are described in Rule 1.15 of the Virginia Rules of Professional Conduct and include, but are not limited to subsidiary ledgers, cash receipts journals, cash disbursement journals, and reconciliations."
71. Respondent provided none of the following in response to the bar's subpoena: subsidiary ledgers, cash receipts journals, cash disbursement journals, or reconciliations. Respondent submitted these were not in her possession, but rather in the possession of her former bookkeeper. According to the former bookkeeper, the records were returned to Respondent in 2010. However, Respondent stated that these were not provided until 2011 and provided proof of mailing via United Parcel Service (UPS) from her bookkeeper in 2011 with damage to the records.

72. Respondent has failed to maintain trust account records as required by Rule 1.15 of the Virginia Rules of Professional Conduct. Respondent blames her former bookkeeper for withholding records.
73. Respondent has failed to deposit client funds into a trust account.
74. Respondent has commingled client funds with non-client funds in her firm's operating account.

II. NATURE OF MISCONDUCT

The Panel finds that such conduct by Bambi Faivre Walters constitutes misconduct in violation of the following Rules of Professional Conduct as stipulated by the parties:

RULE 1.15 Safekeeping Property

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

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

- (1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:
 - (i) a cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;
 - (ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;
 - (iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;
 - (iv) reconciliations and supporting records required under this Rule;
 - (v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.
- (2) in the case of funds or property held by a lawyer or law firm as a fiduciary subject to Rule 1.15(d), the required books and records include:

- (i) an annual summary of all receipts and disbursements and changes in assets comparable to an accounting that would be required of a court supervised fiduciary in the same or similar capacity. Such annual summary shall be in sufficient detail as to allow a reasonable person to determine whether the lawyer is properly discharging the obligations of the fiduciary relationship;
 - (ii) original source documents sufficient to substantiate and, when necessary, to explain the annual summary required under (i), above;
 - (iii) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.
- (f) Required Escrow Accounting Procedures. The following minimum escrow accounting procedures are applicable to all escrow accounts subject to Rule 1.15(a) and (c) by lawyers practicing in Virginia.
- (2) Deposits. All receipts of escrow money shall be deposited intact and a retained duplicate deposit slip or other such record shall be sufficiently detailed to show the identity of each item;
 - (3) Deposit of mixed escrow and non-escrow funds other than fees and retainers. Mixed escrow and non-escrow funds shall be deposited intact to the escrow account. The non-escrow portion shall be withdrawn upon the clearing of the mixed fund deposit instrument;
 - (4) Periodic trial balance. A regular periodic trial balance of the subsidiary ledger shall be made at least quarter annually, within 30 days after the close of the period and shall show the escrow account balance of the client or other person at the end of each period.
 - (i) The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of monies received in escrow for the period and deducting the total of escrow monies disbursed for the period; and
 - (ii) The trial balance shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.

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

RULE 5.5 Unauthorized Practice Of Law; Multijurisdictional Practice of Law

- (c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
- (d) Foreign Lawyers:
 - (1) "Foreign Lawyer" is a person authorized to practice law by the duly constituted and authorized governmental body of any State or Territory of the United States or the District of Columbia, or a foreign nation, but is neither licensed by the Supreme Court of Virginia or authorized under its rules to practice law generally in the Commonwealth of Virginia, nor disbarred or suspended from practice in any jurisdiction.
 - (2) A Foreign Lawyer shall not, except as authorized by these Rules or other law:
 - (i) establish an office or other systematic and continuous presence in Virginia for the practice of law, which may occur even if the Foreign Lawyer is not physically present in Virginia; or
 - (ii) hold out to the public or otherwise represent that the

Foreign Lawyer is admitted to practice law in Virginia.

- (3) A Foreign Lawyer shall inform the client and interested third parties in writing:
 - (i) that the lawyer is not admitted to practice law in Virginia;
 - (ii) the jurisdiction(s) in which the lawyer is licensed to practice; and
 - (iii) the lawyer's office address in the foreign jurisdiction.

RULE 7.1. Communications Concerning A Lawyer's Services

- (a) A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it:
 - (1) contains false or misleading information;

RULE 7.5 Firm Names And Letterheads

- (a) A lawyer or law firm may use or participate in the use of a professional card, professional announcement card, office sign, letterheads, telephone directory listing, law list, legal directory listing, website, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1 and 7.2.
- (b) A law firm shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings make clear the jurisdictional limitations of those members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction.

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and, by majority vote, determined to accept the agreed disposition, it is hereby **ORDERED** that Respondent Bambi Faivre Walters receive a Two (2) Year Suspension with Terms. "Suspension" is defined in Part Six, Section IV, Paragraph 13-1 of the Rules of the Supreme Court of Virginia as follows:

"Suspension" means the temporary suspension of an Attorney's License for either a fixed or indefinite period of time, and when applied to a lawyer not admitted or authorized to practice law in Virginia, means the temporary or indefinite exclusion from the admission to, or the exercise of any privilege to, practice law in Virginia.

During the period of suspension, Respondent shall not perform legal work of any kind in Virginia, including federal patent, copyright, and trademark work, and Respondent shall not provide legal advice of any kind in Virginia. Respondent's suspension shall begin on January 18, 2012 and end on January 18, 2014. Respondent shall comply with all requirements for reinstatement following a suspension for more than one year found in Part Six, Section IV, Paragraph 13-25.H. of the Rules of the Supreme Court of Virginia. In addition, the terms with which Respondent must comply are as follows:

1. By January 18, 2014, Respondent shall either attend in person or view the videotape of the CLE "The Devil Wears Green," presented by Leslie A.T. Haley, Assistant Ethics Counsel and Jeannie Dahnk, Esquire. Respondent shall not submit these hours of CLE toward her annual MCLE compliance requirement in any jurisdiction in which she is licensed. Instead, Respondent shall certify compliance to Kathryn R. Montgomery, or her designee.
2. By January 18, 2014, Respondent shall read *Lawyers and Other People's Money*. Respondent shall certify compliance to Kathryn R. Montgomery, or her designee.
3. Should Respondent return to practice federal patent, trademark, or copyright law in Virginia following her suspension without first becoming a member of the

Virginia State Bar, Respondent shall include the following phrase on all communications of her law practice, including her letterhead, any signage, website, internet profile, advertisement, or brochure: “Bambi Faivre Walters is not licensed to practice law in Virginia.”

If Respondent does not meet the terms described above, the Virginia State Bar Disciplinary Board shall impose the sanction of revocation.

It is further **ORDERED**, pursuant to the provisions of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia, that Respondent shall forthwith give notice, by certified mail, return receipt requested, of the suspension to all clients for whom she is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent shall also make appropriate arrangements for the disposition of matters then in her care, in conformity with the wishes of her clients. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of this effective date of the license suspension. Respondent shall furnish proof to the bar within 60 days of the effective date of the license suspension that such notices have been timely given and such arrangements for the disposition of matters made. If Respondent is not handling any client matters on the effective date of the suspension, she shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. Issues concerning the adequacy of the notice and the arrangements required herein shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with these requirements.

Pursuant to Part Six, Section IV, Paragraph 13-9.E of the Rules of the Supreme

Court of Virginia, the Clerk of the Disciplinary System of the Virginia State Bar shall assess costs.

It is further **ORDERED** that the Clerk of this Court shall send a copy *teste* of this order to Respondent, by certified mail, at 5112 Shoreline Court, Williamsburg, Virginia, 23185, her address of record with the Virginia State Bar; and send copies *teste* by regular mail to Craig S. Cooley, Esquire at 3000 Idlewood Avenue, P.O. Box 7268, Richmond, Virginia 23221, and to Deputy Bar Counsel Kathryn R. Montgomery and Barbara Sayers Lanier, Clerk of the Disciplinary System, at the Virginia State Bar, Eighth and Main Building, Suite 1500, 707 East Main Street, Richmond, Virginia 23219.

Terry S. Griffith of Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227, was the court reporter for the hearing and transcribed the proceedings.

The members of the Panel have elected to have the Chief Judge endorse this order on behalf of all members of the Panel.

ENTERED this 18 day of January, 2012.

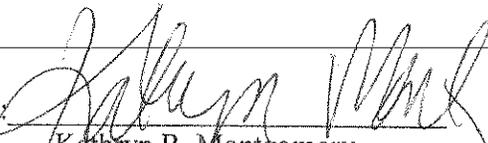


*Margaret Poles Spencer
Chief Judge

*Judge Spencer: I respectfully dissent. The Agreed Disposition accepted by the majority is neither fair nor reasonable.

SEEN AND AGREED:

VIRGINIA STATE BAR

By: 
Kathryn R. Montgomery
Deputy Bar Counsel


Craig S. Cooley, Esquire
Respondent's Counsel