

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
<u>Supreme Court</u>				
Rickey Gene Young	Martinsville	Public Reprimand	April 20, 2000	28
<u>Disciplinary Board</u>				
Turman Curtis Bobbitt	Durango, CO	1 Year, 1 Day Suspension	April 28, 2000	31
Margaret L. McLeod Cain	Charlottesville	Public Reprimand w/ Terms	November 8, 1999	31
John E. Callaghan	Scotch Plains, NJ	Revocation	May 26, 2000	33
Woodson T. Drumheller	Richmond	2 Year Suspension	February 17, 2000	34
Donald Edward Earls	Norton	Revocation	May 12, 2000	
Sidney S. Kanter	Parsippany, NJ	2 Year Suspension	April 28, 2000	36
Madeleine Marie Reberkenny	Alexandria	13 Month Suspension	May 26, 2000	
<u>District Committee</u>				
George Burton Cooley, Jr.	Hillsville	Public Reprimand w/ Terms	April 27, 2000	36
Sean Patrick McMullen	Washington, DC	Public Reprimand	May 5, 2000	38
William B. Talty	Hanover	Public Reprimands	March 20, 2000	39
Richard Scott Yarow	Hampton	Public Reprimand	April 7, 2000	42

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
Clifford Kent Allison	Virginia Beach	Disciplinary Board	May 1, 2000

Supreme Court

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 20th day of April, 2000.

In the Matter of
RICKEY GENE YOUNG
VSB Docket No. 98-090-2011

Upon an appeal of right from a judgment rendered by the Virginia State Bar Disciplinary Board on the 5th day of November, 1999.

On March 15, 2000 came the appellee by the Attorney General of Virginia, and filed a motion to dismiss in this case.

Thereupon came the appellant, in proper person, and filed a motion for extension of time.

On consideration whereof, the appellee's motion is granted, and the appeal of right in this case is dismissed. On

further consideration whereof, the appellant's motion for extension of time is denied.

A Copy,
Teste:

Clerk

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
RICKEY GENE YOUNG
VSB Docket No. 98-090-2011

ORDER DISMISSING APPEALS AND AFFIRMING
DISTRICT COMMITTEE SANCTIONS

Came this day the Virginia State Bar, by counsel, and presented its Motion to Dismiss Appeal filed by the Respondent, on the ground that the Respondent has failed to perfect

his appeal in the matter provided for in the Rules of Court governing appeals to the Disciplinary Board from a district committee determination.

Specifically, the provisions of Paragraph 13(D)(1)(a) require the Respondent to file an opening brief in the office of the Clerk of the Disciplinary System within forty (40) days after the filing of the record in the office of the Clerk of the Disciplinary System. The opening brief was not timely filed with the Clerk of the Disciplinary System.

The pertinent provision of these rules provide:

“Failure of the Respondent to file an opening brief within the time specified herein shall result in the dismissal of the appeal and affirmation of the sanction imposed by the District Committee” [Rules of Court, Part 6, Section 4, Paragraph 13(D)(1)(a)].

For the foregoing reasons, the Board is of the opinion that the Bar’s motion to dismiss the appeal should be and hereby is Granted, and the Respondent’s appeal is Dismissed and the Ninth District Committee Determination (Public Reprimand) dated June 23, 1999, attached to this Order and incorporated herein, is hereby AFFIRMED.

ENTER this Order this 5th day of November, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Chair

BEFORE THE NINTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
RICKEY GENE YOUNG
VSB Docket No. 98-090-2011

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND)

On June 10, 1999, a hearing in this matter was held before a duly convened Ninth District Committee panel consisting of Dr. Nancy Young, John T. Cook, G. Edgar Dawson, Michael E. Hastings and G. Carter Greer, Chair, presiding. The Bar was represented by Assistant Bar Counsel Richard E. Slaney. The Respondent, Rickey Gene Young, was present in person and represented by his counsel, Perry H. Harrold.

Pursuant to Virginia Supreme Court Rules of Court Part Six, Section IV, Paragraph 13(B)(7) and Council Rule of Disciplinary Procedure V, the Ninth District Committee of the Virginia State Bar hereby serves upon the Respondent, Rickey Gene Young, the following Public Reprimand.

1. FINDINGS OF FACT

1. At all times material to these allegations, the Respondent, Rickey Gene Young (Young), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. In May of 1997, Young was acquainted with Todd Davidson (Davidson), who was employed by a business known as Sounds Unlimited in Martinsville, Virginia. From time to time, Young would do legal work for Davidson without fee, and in turn, Davidson would do car stereo work for Young without fee.
3. Young spoke to Davidson in May of 1997 and asked Davidson to do some car stereo work for him on his Porsche. The Porsche was left with Davidson, and Young took Davidson’s vehicle that day. Davidson did not plan to charge Young for his labor.
4. Later that same day, the parties re-exchanged vehicles and Davidson demonstrated the work he had performed on the car stereo. Young indicated to Davidson he believed Davidson had damaged the car’s engine. Davidson denied doing anything that would have damaged the engine.
5. Approximately a week later, Young presented Davidson with a repair bill for damages Young claimed Davidson caused to the Porsche’s motor. This first repair bill was in the amount of \$1,266. Young testified at the hearing, however, that he only paid \$666.00 for the repairs represented by that invoice. This fact was never communicated to Davidson, Bengston or Sounds Unlimited.
6. Young suggested they could settle the matter if Davidson and/or Sounds Unlimited would install a new \$1,199 Alpine car stereo in the Porsche without charge. Davidson refused, denying he damaged the Porsche and denying his employer had any liability for any damage occurring during his work on the Porsche.
7. Shortly thereafter, Young filed a Warrant in Debt against Davidson and Sounds Unlimited in the amount of \$3,600 for damage done to the Porsche’s engine.
8. Davidson and Sounds Unlimited retained Gary Bengston (Bengston) to defend the suit, and Bengston removed the case to the Circuit Court of the City of Martinsville.
9. On August 4, 1997, Bengston served discovery Interrogatories and Requests for Production on Young. No answers to the discovery were forthcoming within the time allowed by the Rules of Court, and telephone messages from Bengston to Young on August 29, September 10 and September 25 of 1997 went unanswered.
10. The case was called at Docket Call on October 15, 1997. At that time, Young indicated to Bengston he’d have discovery responses to Bengston by the end of the week.

Also at that time, Judge Stone recused himself from the case. The case was set for trial on February 5, 1998.

11. On October 17, 1997, Bengston mailed another copy of the discovery to Young and asked Young to respond. Having had no response, on October 24, 1997, Bengston filed a Motion to Compel. Bengston also wrote Judge Stone and asked if the Judge would hear the Motion to Compel. The Judge responded that he wasn't comfortable hearing the Motion to Compel, but indicated sanctions should be requested if a party was not complying with the Rules of Court, and by copy of that letter, he urged Young to provide the discovery responses.
12. By cover of a letter dated December 1, 1997, Young provided his responses to the discovery requests. In response to an interrogatory asking how Young calculated his damages, Young responded "See attached." In response to the Requests for Production, Young responded "See attached" in four different places. In fact, no documents were attached to Young's responses.
13. On December 5, 1997, Bengston wrote Young, indicating deficiencies in the discovery responses. On December 10 and December 16, Bengston left telephone messages for Young. Young didn't respond to the letter and did not respond to the phone messages.
14. The Honorable Samuel Hairston, Retired (Judge Hairston), was designated by the Virginia Supreme Court to hear the case.
15. On January 8, 1998, Bengston again wrote to Young referencing deficiencies in his discovery responses.
16. On January 9, 1998, Bengston filed a Motion for Sanctions grounded on Young's incomplete discovery responses.
17. On January 19, 1998, a hearing was held on Bengston's two pending motions. At that hearing Young conceded he had not produced any documents, and that his responses "See attached" were not accurate. Young indicated he would file complete answers to the interrogatories and produce all required documents by January 22, 1998. Young also indicated the total amount of his claim was \$600, not the \$3,600 for which he sued. Judge Hairston took the Motion for Sanctions under advisement.
18. On January 30, 1998, Young faxed to Bengston a single invoice. This second invoice was recreated by Young's mechanic to replace the \$1,266 invoice, which Young has lost. The second invoice was in the amount of \$1,371.09, and did not reflect that Young paid substantially less for the repairs. No other attempt at supplementing discovery responses or providing documents was made by Young.
19. On February 5, 1998, the morning of trial, a hearing was held before trial commenced. At that time, Young

conceded he had not supplemented his discovery responses, other than the fax referenced above. Young again reiterated his claim was for \$600. Judge Hairston indicated he was going to award sanctions; however, while the Judge was discussing the type of sanctions to impose, Young moved for a non-suit.

20. An order of non-suit was entered over Bengston's objection. In response to a post-trial motion to set aside the non-suit order, Judge Hairston related the sequence of events and in a letter opinion indicated he felt the non-suit deprived him of any further jurisdiction in the matter.
21. Davidson and Sounds Unlimited paid at least \$1,200 in attorneys' fees in defending against Young's claim.
22. Young testified he has no intention to refile the claim against Davidson or Sounds Unlimited

II. NATURE OF MISCONDUCT

After the argument of counsel and private deliberation, the hearing panel found that such conduct on the part of Respondent constitutes misconduct, under a clear and convincing evidentiary standard, in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 1-102.(A)(4) ***
DR 7-102.(A)(1) and (5) ***

After hearing argument of counsel, the hearing panel specifically determined that DRs 1-102(A)(4), 7-102(A)(1) and (A)(5) apply to an attorney representing himself *pro se*. The hearing panel dismissed the alleged violations of DRs 1-102(A)(3) and 7-102(A)(2) as being unsupported by clear and convincing evidence.

III. IMPOSITION OF PUBLIC REPRIMAND

Following the findings of misconduct referenced above, the hearing panel received evidence of the Respondent's prior disciplinary record, and heard argument of counsel as to the appropriate sanction to be imposed. After deliberation, the hearing panel decided to impose a Public Reprimand.

Accordingly, it is the decision of the Committee to impose a Public Reprimand on Respondent, Rickey Gene Young, and he is hereby reprimanded.

NINTH DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By G. Carter Greer, Chair, Presiding
Certified June 23, 1999



Disciplinary Board

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
TURMAN CURTIS BOBBITT
VSB Docket No. 00-000-2167

SHOW CAUSE ORDER AND
ORDER OF SUSPENSION AND HEARING

It appearing to the Board that Turman Curtis Bobbitt was licensed to practice law within the Commonwealth of Virginia on September 26, 1980; and

It further appearing that Turman Curtis Bobbitt, has been suspended from the practice of law for one year and one day effective June 9, 1999, by order issued May 10, 1999, by the Supreme Court of Colorado, all as stated in the attached order in case number 99SA58; and

It further appearing that such disciplinary action in the Supreme Court of Colorado has become final;

It is ORDERED, pursuant to Rules of Court, Part Six, §IV, ¶13(G), that the license of Turman Curtis Bobbitt, to practice law within the Commonwealth of Virginia be, and the same is, hereby suspended, upon entry of this order.

It is further ORDERED that Turman Curtis Bobbitt, appear before the Virginia State Bar Disciplinary Board in the Virginia Supreme Court, 100 N. Ninth Street, Supreme Court Building, Hearing Room A, First Floor, Richmond, Virginia 23219, at 9:00 a.m., on April 28, 2000, to show cause why his license to practice law within the Commonwealth of Virginia should not be further suspended or revoked.

It is further ORDERED that a copy of the Order of the Supreme Court of Colorado in No. 99SA58, be attached to this Rule to Show Cause and made a part hereof.

ENTER this Order this 30th day of March, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Chair

[Editor's Note: Attachments available upon request.]



BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
MARGARET L. McLEOD CAIN, ESQUIRE
VSB Docket No. 98-070-1480

FINAL ORDER
(PUBLIC REPRIMAND WITH TERMS)

This matter came on the 8th day of November, 1999, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Randy I. Bellows, Esquire; Bruce T. Clark, Esquire; Werner H. Quasebarth, layperson; Deborah A.J. Wilson, Esquire; and Henry P. Custis, Jr., Esquire, Chair, presiding.

James W. Carroll, Jr., Esquire, Assistant Bar Counsel, represented the Bar. The Respondent, Margaret L. McLeod Cain, Esquire, was present, represented by counsel, Bruce R. Williamson, Jr., Esquire, and presented an endorsed Agreed Disposition reflecting the terms of the Agreed Disposition.

Having considered 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, Margaret L. McLeod Cain, Esquire (hereinafter Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On approximately October 6, 1994, Annie Mae Harris (hereinafter the Complainant) went inside a drugstore in Charlottesville, Virginia. Due to no fault of her own, as she was leaving the store, a theft-prevention device sounded. Employees of the drugstore took and searched the purse of the Complainant. This incident caused substantial embarrassment and humiliation for the Complainant.
3. The Complainant decided that she would retain counsel and pursue her options for taking action against the drugstore. The Complainant called the offices of the Respondent and made an appointment to meet with her on approximately October 12, 1994.
4. On approximately October 12, 1994, the Complainant went to the office of the Respondent. At that time, she reported to the Respondent the facts set forth in Paragraph 2 hereinabove. The Complainant would testify that the Respondent told her that she had a good case and that it was actionable. The Complainant would testify that the Respondent told the Complainant that she would first write the drugstore and attempt to have them settle the case by paying monetary damages prior to ever filing any court

action. The Complainant agreed to this plan and indicated that she was willing to file a lawsuit if the drugstore did not otherwise settle the matter. There was not a written retainer agreement. The Complainant would testify that the Respondent told her she would take the case on a contingency basis but never fully informed her what the amount of the contingency would be.

5. The Complainant would testify that for the next two (2) years, the Respondent did not return her numerous telephone calls nor would she meet with her when she stopped by at the Respondent's office. The Complainant would testify that the only communication that the Respondent did have with the Complainant was to inform her that the drugstore was willing to apologize and give the Complainant some gift certificates to the store.
6. The Complainant would testify that the Respondent eventually told the Complainant that if she paid to the Respondent filing fees and costs of approximately \$84.00, the Respondent would file suit. The Complainant would testify that she borrowed the funds and paid the Respondent in approximately January of 1996. The Respondent does not dispute that she informed the Complainant that the Complainant needed to deposit a sum of money sufficient to cover filing fees and costs. The Respondent does not recollect the exact figure she quoted to the Complainant. The Respondent does not know how the Complainant acquired the fees and costs, but acknowledges that the Complainant paid \$84.00 to the Respondent in early 1996.
7. The Complainant would testify that the Respondent told the Complainant that the case had been filed and that there was a court date set for August of 1996. The Complainant would testify that, because the Respondent had not returned the telephone calls of the Complainant, the Complainant went to see the Respondent in July of 1996. The Complainant would testify that she asked the Respondent about the status of the case and the Respondent told the Complainant not to worry about it, indicated that it was the concern of the Respondent, and advised her that the trial date was soon.
8. The Respondent had a telephone conversation with Ms. Sheila Jones, the daughter of the Complainant, during the second week of October, 1996. Ms. Jones recorded the telephone conversation. The Respondent confirmed with Ms. Jones that the case had been filed, that there had not been any discovery requests by counsel for CVS, and that there was an upcoming trial date. The Respondent stipulates that this conversation took place and that this false information was given to Ms. Jones. The Respondent states that she does not have any independent recollection of this conversation.
9. The Respondent did not file the suit until October 7, 1996, in advance of the running of the applicable statute of

limitations. The Respondent did not file any action on behalf of the Complainant before October 7, 1996. The filing costs were \$62.00. The Respondent has stated and believes that she mailed the Complainant a copy. The Complainant would testify that she never received a copy of the Motion for Judgment.

DISPOSITION

The Board finds by clear and convincing evidence that such conduct on the part of Margaret L. McLeod Cain, Esquire, constitutes a violation of the following Rule(s) of the Virginia Code of Professional Responsibility:

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

Upon consideration whereof, it is ORDERED that the Respondent shall receive, effective upon entry of this Order, a PUBLIC REPRIMAND WITH TERMS. The terms and conditions shall be met by November 1, 2000, and are as follows:

1. The Respondent shall participate at her expense in an evaluation for alcoholism and/or substance abuse by a licensed psychologist or otherwise qualified health professional (such person to be approved in advance by Counsel for the Virginia State Bar) and shall participate in such treatment or counseling as is deemed necessary by such evaluator for such time as the counselor shall deem reasonably necessary or appropriate in his or her professional opinion. Further, the Respondent shall consent to such counselor releasing information upon request of the Bar as to the status of the counseling, specifically including a report of any progress or regression. The counselor shall provide to the Bar within sixty (60) days of the date of this Order, a preliminary assessment describing the current condition of the Respondent and probable treatment plans, if any. The counselor shall also provide a final written report by November 1, 2000, stating whether the counseling has been successfully completed and whether there are any unresolved issues which would lead to further instances of this type of misconduct. If the counselor advises upon the initial evaluation that no treatment is required, the Respondent shall, at her expense, repeat such evaluation with the same evaluator no sooner than August 1, 2000, and shall make arrangements for the evaluator to prepare a written report of said evaluation by November 1, 2000. All reports shall be made available to the Virginia State Bar and the Virginia State Bar Disciplinary Board for review and consideration.
2. The Respondent shall implement a written office policy relating to regular and informative client communications. The policy shall include provisions for providing the client with written copies of correspondence, pleadings and other documentation relating to representation, engaging in meetings either by telephone or in person to discuss the progress and answer status inquiries from the client or the client's designated agent, and the return of telephone

inquiries from clients within twenty-four working hours. The Respondent shall also develop and implement a written docket control system which will ensure that she reviews the status of all pending matters periodically, is reminded in advance of key deadlines and other obligations, and otherwise serve as a malpractice tickler system. Both the office policy and the docket control system shall be implemented no later than December 1, 1999. No later than December 1, 1999, the Respondent shall provide the Assistant Bar Counsel handling this matter with copies of the office policy and docket control system, and a written certification under oath that such office policy and docket control system are in use in her office.

- 3. The Respondent shall complete four (4) hours of continuing legal education in the areas of ethics in addition to the mandatory continuing legal education hours required to maintain her license to practice law in the Commonwealth of Virginia. Upon completion of such CLE ethics hours, the Respondent shall so certify in writing to the Assistant Bar Counsel assigned to this case. The Respondent's attendance shall not be credited toward fulfilling her annual continuing legal education requirements.
- 4. The Respondent shall complete four (4) hours of continuing legal education in the areas of law office management in addition to the mandatory continuing legal education hours required to maintain her license to practice law in the Commonwealth of Virginia. Upon completion of such office management CLE hours, the Respondent shall so certify in writing to the Assistant Bar Counsel assigned to this case. The Respondent's attendance shall not be credited toward fulfilling her annual continuing legal education requirements.
- 5. The Respondent shall send a written letter of apology for her behavior in this matter to the Complainant. This letter shall be sent by December 1, 1999, and a copy of the letter shall be sent to the Assistant Bar Counsel handling this matter.
- 6. The Respondent shall refund all funds paid to her from the Complainant relating to this matter. The Respondent shall provide proof of compliance with this term to the Assistant Bar Counsel handling this matter by December 1, 1999.

In the event the foregoing terms have not been completed by November 1, 2000, the alternate disposition of a six-month suspension of the Respondent's license to practice law in the Commonwealth of Virginia shall be ordered by this Board.

ENTER this Order this 24th day of May, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Henry P. Custis, Jr., First Vice-Chair



BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
JOHN E. CALLAGHAN
VSB Docket No. 00-000-2338

SHOW CAUSE ORDER AND
ORDER OF SUSPENSION AND HEARING

It appearing to the Board that John E. Callaghan was licensed to practice law within the Commonwealth of Virginia on September 2, 1969; and

It further appearing that John E. Callaghan has been disbarred from the practice of law by order issued December 27, 1999, by the Supreme Court of New Jersey, all as stated in the attached order in case number D-25; and

It further appearing that such disciplinary action in the Supreme Court of New Jersey has become final;

It is ORDERED, pursuant to Rules of Court, Part Six, §IV, ¶13(G), that the license of John E. Callaghan to practice law within the Commonwealth of Virginia be, and the same is, hereby suspended, upon entry of this order.

It is further ORDERED that John E. Callaghan appear before the Virginia State Bar Disciplinary Board in the State Corporation Commission, Tyler Building, 1300 East Main Street, Second Floor, Courtroom A, Richmond, Virginia 23219, at 9:00 a.m., on May 26, 2000, to show cause why his license to practice law within the Commonwealth of Virginia should not be further suspended or revoked.

It is further ORDERED that a copy of the Order of the Supreme Court of New Jersey in D-25, be attached to this Rule to Show Cause and made a part hereof.

ENTER this Order this 27th day of April, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Chair

[Editor's Note: Attachments available upon request.]



[Editor's Note: The 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 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 Theophylise 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 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 you 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 15, 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 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.

ENTER this Order 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 Matter of
SIDNEY S. KANTER
VSB Docket No. 00-000-2168

SHOW CAUSE ORDER AND
ORDER OF SUSPENSION AND HEARING

It appearing to the Board that Sidney S. Kanter was licensed to practice law within the Commonwealth of Virginia on January 26, 1972; and

It further appearing that Sidney S. Kanter has been suspended from the practice of law by the Disciplinary Review Board for a period of one year effective June 3, 1999, in DRB 98-172 and for a consecutive period of a one year suspension effective June 3, 2000, in DRB 98-466 by opinion of the Supreme Court of New Jersey in D-231 entered December 7, 1999; and

It further appearing that such disciplinary action in the Supreme Court of New Jersey has become final;

It is ORDERED, pursuant to Rules of Court, Part Six, §IV, ¶13(G), that the license of Sidney S. Kanter, to practice law within the Commonwealth of Virginia be, and the same is, hereby suspended, upon entry of this order.

It is further ORDERED that Sidney S. Kanter appear before the Virginia State Bar Disciplinary Board in the Virginia Supreme Court, 100 N. Ninth Street, Supreme Court Building, Hearing Room A, First Floor, Richmond, Virginia 23219, at 9:00 a.m., on April 28, 2000, to show cause why his license to practice law within the Commonwealth of Virginia should not be further suspended or revoked.

It is further ORDERED that a copy of the Order of the Supreme Court of New Jersey in D-231, be attached to this Rule to Show Cause and made a part hereof.

ENTER this Order this 30th day of March, 2000
By Carl A. Eason, Chair

[Editor's Note: Attachments available upon request.]



District Committee

BEFORE THE TENTH, SECTION I DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
GEORGE BURTON COOLEY, JR.
VSB Docket No. 98-101-1531

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On April 18, 2000, a hearing in this matter was held before a duly convened Tenth, Section I District Committee panel consisting of Harriet D. Dorsey, Robert M. Turk, James T. Ward, Samuel H. Nixon, Jr., and Thomas G. Hodges, Chair, presiding.

Pursuant to Virginia Supreme Court Rules of Court Part Six, Section IV, Paragraph 13(B)(7) and Council Rule of Disciplinary Procedure V, the Tenth, Section I District Committee of the Virginia State Bar hereby serves upon the Respondent, George Burton Cooley, Jr., the following Public Reprimand with Terms.

I. FINDINGS OF FACT

- 1. At all times material to this matter, the Respondent, George Burton Cooley, Jr. (Cooley), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On or about April 29, 1997, the Complainant, Joseph Alan Dalton (Dalton), hired Cooley to represent him in regaining a motor vehicle operator's license. Dalton paid Cooley \$800 in cash on that date for the representation.
3. Cooley did not deposit the \$800 fee into a trust account, and it is unclear what he did with these funds.
4. In the spring of 1997, Dalton also wanted to file a personal bankruptcy, and Cooley agreed to represent Dalton in the bankruptcy case. Dalton supplied Cooley or Cooley's secretary with information requested as necessary for Cooley to prepare the bankruptcy petition, and Dalton signed bankruptcy papers on July 7, 1997.
5. From the spring of 1997 through the spring of 1998, Dalton had several appointments with Cooley to discuss the matters Cooley was handling. Each time Dalton appeared for his appointment, Cooley was not in his office. On a number of occasions, Cooley also failed to return Dalton's telephone messages.
6. Dalton's mother, JoAnn Brewer, also made numerous attempts to contact Cooley by telephone, without success. She, too, had two or three appointments with Cooley to discuss her son's cases, but Cooley failed to appear for those appointments. Subsequently, she went to Cooley's office without an appointment and waited until he came in.
7. As of March 18, 1998, Cooley had not filed any papers with any court regarding the restoration of Dalton's driver's license. Cooley had also not filed Dalton's bankruptcy petition. On that day, Dalton fired Cooley by letter delivered certified mail, return receipt requested.
8. In the summer of 1999, Cooley refunded \$500 to Dalton.
9. At the hearing, Cooley acknowledged his failure to get either matter filed with the appropriate court or to communicate with Dalton, and did not offer any evidence in his defense.

II. NATURE OF MISCONDUCT

Such conduct on the part of Respondent constitutes misconduct in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

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

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

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

The hearing panel found there was no evidence to support the allegations of a violation of DR 6-101(A) and dismissed that charge.

III. IMPOSITION OF PUBLIC REPRIMAND WITH TERMS

Accordingly, it is the decision of the Committee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for the disposition of this complaint by a Public Reprimand with Terms. The following terms are imposed:

1. Within thirty (30) days of the date of this Determination, Cooley shall refund \$300 to Dalton, and shall provide the Bar with proof of the refund.
2. Within sixty (60) days of the date of this Determination, Cooley shall read the book "Lawyer's and Other People's Money" by Frank A. Thomas, III, and shall certify he has done so to the Bar in writing.
3. Within thirty (30) days of the date of this Determination, Cooley shall bring his bookkeeping practices in conformity with Canon 9 of the Disciplinary Rules (now codified as Rule 1.15 of the Rules of Professional Conduct), and shall certify he has done so to the Bar in writing. Further, the Bar shall monitor Cooley's compliance with this term at least twice a year for the next three (3) years, and Cooley is directed to cooperate with the Bar and anyone acting on its behalf in fulfillment of this term.
4. Within thirty (30) days of the date of this Determination, Cooley shall either set up a tickle/reminder system for his practice or confirm one is in place. He shall describe the system, which shall be approved by the Bar with its assistance and input as necessary.
5. Until the expiration of three (3) years from April 18, 2000, Cooley shall not engage in any activity which is determined during that three (3) year period by a District Subcommittee, District Committee, Disciplinary Board or a Circuit Court to be in violation of any provision of the Virginia Rules of Professional Conduct.

Upon satisfactory proof these terms have been satisfied, the Respondent shall be given a Public Reprimand with Terms and this matter shall be closed. If, however, Respondent fails to meet these terms within the time specified, the matter shall be brought before the Tenth, Section I District Committee which, if a lack of compliance is found, shall certify this case for hearing before the Virginia State Bar Disciplinary Board as an alternative sanction.

TENTH, SECTION I DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By Thomas G. Hodges, Chair Presiding
Certified April 27, 2000



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

In the Matter of
SEAN PATRICK McMULLEN, ESQ.
VSB Docket No. 99-041-1554

SUBCOMMITTEE DETERMINATION
PUBLIC REPRIMAND

On April 27, 2000, a meeting in this matter was held before a duly convened Fourth District—Section I Subcommittee consisting of Karen A. Crist, Esquire, Donald H. Stewart, Jr., M.D., and Leo R. Andrews, Esquire, presiding.

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

I FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Sean Patrick McMullen, Esquire (hereinafter Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia. He was admitted to the Virginia State Bar on October 5, 1990.
2. During the time of the events referred to hereafter, Respondent was employed as an associate attorney at an established law firm with offices in Arlington, Virginia, and had been so employed for approximately five years.
3. In July, 1998, Respondent was assigned the task of procuring a license from the Virginia Department of Alcoholic Beverage Control on behalf of the law firm's Texas-based corporate client, which owned and/or operated through various business entities a national chain of hotels. The ABC license was to be for the entity, which was to operate the restaurant bar facilities of a hotel scheduled to open for business in Herndon, Virginia, on or about November 30, 1998.
4. Between July and mid-November, 1998, Respondent gave the client information and assurances that the ABC license application was progressing in a normal fashion. Between November 17, and December 1, 1998, inclusive, Respondent represented that the license application was in order. On November 30 and December 1, 1998, Respondent informed the client that he was going in person to the offices of the Virginia Department of Alcoholic Beverage Control to await issuance of the ABC license that had been applied for.
5. Notwithstanding the representations of Respondent to the client referred above, no such application for an ABC license had been accepted for filing by the Virginia Department of Alcoholic Beverage Control as of November 30, 1998.
6. On November 30, 1998, Respondent personally tendered an application for an ABC license on behalf of the client, which application was rejected by the Virginia Department of Alcoholic Beverage Control because it lacked the signature of the applicant's representative. The section of the application wherein a signature was required was entitled "Sworn Affidavit" and contained blank spaces for the signature and title of the person signing on behalf of the applicant, and for a notary's signature and information.
7. On December 1, 1998, Respondent reappeared in the offices of the Virginia Department of Alcoholic Beverage Control, and tendered an original license application, this time containing a signature purporting to be that of Archie Bennett, Jr., the applicant's "Secretary/Treasurer." In the "Sworn Affidavit" section of the application, wherein his purported signature appeared, Mr. Bennett made "oath" that the statements contained in the application and all attachments were true. The Respondent, who notarized the document, represented below Mr. Bennett's purported signature that such oath was made before him by Mr. Bennett on November 30, 1998.
8. Jonathan H. Holland, II, Assistant Special Agent in Charge, Virginia Department of Alcoholic Beverage Control, examined the application, noted that Mr. Bennett, the affiant, resided in Texas, and concluded that it was improbable that Respondent could have secured Mr. Bennett's signature in the short interval between the presentation of the unsigned, rejected application and the application containing the notarized signature of Mr. Bennett.
9. Agent Holland contacted Respondent by telephone on December 1, 1998, and was told by Respondent that Respondent had seen Mr. Bennett sign applications on previous occasions, and that he, the Respondent, notarized one of them. Later that same day, Respondent appeared in Agent Holland's office and conceded that he both had signed Mr. Bennett's name to the application and had notarized Mr. Bennett's purported signature.
10. At the time Respondent signed Mr. Bennett's name to the ABC license application, he did not have authority to do so by way of power of attorney or otherwise.
11. The Respondent promptly reported to a senior lawyer at the firm which employed him that he had signed another person's name to an ABC license application and had notarized such signature.
12. Mitigating factors recognized by the ABA which are applicable to this matter, and which the Subcommittee finds justify a reduction in the degree of discipline that might otherwise have been imposed, include the following:
 - a. the absence of a disciplinary record;
 - b. personal or emotional problems: at the time of Respondent's tender of the ABC applications referred

to herein, the Respondent was under stress occasioned by the hospitalization and imminent surgical needs of a member of his immediate family;

- c. absence of a dishonest or selfish motive: while Respondent's actions were dishonest, they were not motivated by selfishness or designed to result in pecuniary gain;
- d. timely good faith effort to make restitution or to rectify consequences of misconduct: the Respondent promptly and voluntarily made disclosure of his wrongful conduct to his employer and to Agent Holland, after which time a proper ABC license application was filed by Respondent's employer on behalf of the client and was promptly processed by the Virginia Department of Alcoholic Beverage Control;
- e. full and free disclosure to the disciplinary board or cooperative attitude toward proceedings: the Respondent and his counsel cooperated fully with Bar Counsel and the Virginia State Bar investigator in the investigation of this matter;
- f. character or reputation: Respondent, a senior associate at the law firm that employed him at the time of the incidents referred to herein, was known as an exceptionally good and capable lawyer; and
- g. remorse: in person, and through counsel, Respondent has evidenced remorse for his actions.

II. NATURE OF MISCONDUCT

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

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

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

III. PUBLIC REPRIMAND

Accordingly, it is the decision of the Subcommittee that the Respondent, Sean Patrick McMullen, Esq., be, and he hereby is, issued a PUBLIC REPRIMAND for his misconduct identified herein.

FOURTH DISTRICT—SECTION I SUBCOMMITTEE OF THE VIRGINIA STATE BAR
By Leo R. Andrews, Jr., Chair/Chair Designate
Certified May 5, 2000



BEFORE THE THIRD DISTRICT COMMITTEE, SECTION III OF THE VIRGINIA STATE BAR

In the Matter of
WILLIAM B. TALTY
VSB Docket No. 98-033-1788

DISTRICT COMMITTEE DETERMINATION (PUBLIC REPRIMAND)

On March 14, 2000, a show cause hearing in this matter was held before a duly convened Third District Committee, Section III, panel consisting of Edwin A. Bischoff, Rene S. Hicks, Michael N. Herring, Thaddeus Talley Crump and Laurence H. Levy, lay members, and James L. Banks, Jr., Chair, presiding.

The Respondent, William B. Talty, did not respond to the show cause order or appear for the hearing. Barbara Ann Williams, Bar Counsel, appeared as counsel for the Virginia State Bar.

Pursuant to Part 6, §IV, ¶13(B)(7) of the Rules of the Supreme Court, the Third District Committee, Section III, of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand.

I. FINDINGS OF FACT

1. At all times relevant hereto, William B. Talty has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On February 9, 1998, Richard C. Manson, Jr., Commissioner of Accounts for the City of Richmond, reported to the bar that Mr. Talty had failed to make appropriate filings as the administrator of an estate.
3. Mr. Talty qualified as administrator of the estate of George Edward Hoffman on March 19, 1990.
4. Mr. Talty filed an inventory with the Commissioner of Accounts for the City of Richmond on July 27, 1990.
5. Mr. Talty filed a draft accounting on December 6, 1991, for the period of March 19, 1990 to December 6, 1991, with no supporting documentation.
6. Aside from the inventory and draft accounting, Mr. Talty made no other filings with the Commissioner of Accounts.
7. Before issuing a summons for the documentation supporting the first accounting, during late December 1997 and early January 1998, Mr. Manson left Mr. Talty approximately ten telephone messages over a three week period.
8. Mr. Talty did not return Mr. Manson's telephone calls or respond to the summons and, after being served with a

- show cause order, failed to contact Mr. Manson or produce any supporting documentation.
9. On March 9, 1998, Mr. Talty left an accounting at Mr. Manson's office and apologized at the hearing for his non-responsiveness to his repeated inquiries.
 10. Mr. Manson approved the accounting that Mr. Talty filed for the period March 19, 1990 to January 20, 1998, but due to the late filings, refused to approve Mr. Talty's commission.
 11. At a hearing on April 6, 1998, the court awarded Mr. Talty one-half of his commission and ordered Mr. Talty to pay the beneficiaries the other half, approximately \$2,000, within one month and to submit copies of the canceled payment checks to the court.
 12. On July 27, 1998, Mr. Talty appeared in court and represented that his bank would not provide copies of canceled checks.
 13. The court gave Mr. Talty until August 24, 1998, to obtain receipts from each of the five beneficiaries.
 14. When Mr. Talty appeared in court again on August 24, 1998, he only submitted four out of the five receipts that were due.
 15. This engagement is the first and only time that Mr. Talty has served as an administrator of an estate.
 16. On September 15, 1998, a Third District, Section Three, Subcommittee consisting of Alan R. Kern, lay member; Janipher W. Robinson, Esquire; and Thomas O. Bondurant, Jr., Esquire, presiding Chair, convened to consider an agreed disposition on the above-described matter.
 17. The subcommittee accepted the proposed agreed disposition and, on March 8, 1999, issued a Private Reprimand with Terms, based upon its findings that Mr. Talty had violated DRs 6-101 (A) and (B).
 18. The Private Reprimand with Terms provided that Mr. Talty had to meet the following terms and conditions by December 31, 1999:
 - a. Mr. Talty consent to the bar's referral of him to Lawyers Helping Lawyers for whatever type of assessment Lawyers Helping Lawyers deem appropriate to determine if Mr. Talty is suffering from a disability that affects his conduct as a lawyer.
 - b. If it is determined that Mr. Talty has such a disability, Mr. Talty's agreement to complete the recommended course of treatment or counseling.
 - c. If it is deemed appropriate by Lawyers Helping Lawyers, Mr. Talty's consent to entering into a monitoring contract with Lawyers Helping Lawyers.

- d. In the event that a monitoring contract is not deemed appropriate, Mr. Talty's consent to Lawyers Helping Lawyers advising the undersigned bar counsel as to whether Mr. Talty has completed the recommended course of treatment or counseling.

19. These terms and conditions are to run currently with the terms and conditions imposed in In the Matter of William B. Talty, VSB Docket No. 98-033-1870.
20. After hearing evidence, the committee determined that Mr. Talty had breached a monitoring contract with Lawyers Helping Lawyers and thereby failed to comply with the terms of the Private Reprimand.

II. NATURE OF MISCONDUCT

The Respondent has violated the following Rules of the 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 committee to impose the alternate disposition of a public reprimand, and the Respondent is hereby so reprimanded.

THIRD DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By James L. Banks, Jr., Committee Chair
Certified March 20, 2000



BEFORE THE THIRD DISTRICT COMMITTEE, SECTION III
OF THE VIRGINIA STATE BAR

In the Matter of
WILLIAM B. TALTY
VSB Docket No. 98-033-1870

DISTRICT COMMITTEE DETERMINATION (PUBLIC REPRIMAND)

On March 14, 2000, a show cause hearing in this matter was held before a duly convened Third District Committee, Section III, panel consisting of Edwin A. Bischoff, Rene S. Hicks, Michael N. Herring, Thaddeus Talley Crump and Laurence H. Levy, lay members, and James L. Banks, Jr., chair, presiding.

The Respondent, William B. Talty, did not respond to the show cause order or appear for the hearing. Barbara Ann Williams, Bar Counsel, appeared as counsel for the Virginia State Bar.

Pursuant to Part 6, §IV, ¶13(B)(7) of the Rules of the Supreme Court, the Third District Committee, Section III, of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand.

I. FINDINGS OF FACT

1. At all times relevant hereto, William B. Talty has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On December 8, 1997, John Alexander Elswick filed a complaint with the Virginia State Bar, alleging that Mr. Talty has failed to keep him apprised of the status of a workers' compensation case pending in West Virginia.
3. In July 1986, when Mr. Talty's law office was in Tazewell, Virginia, he undertook to represent the complainant in a workers' compensation dispute arising from a work-related injury in West Virginia.
4. In January 1990, Mr. Talty moved to Richmond, Virginia, but continued to maintain an office in Tazewell, where telephone calls for him were forwarded to Richmond.
5. Mr. Talty's representation of the complainant continued was ongoing when the complaint was filed, although Mr. Talty's ledger sheet for the representation only runs from May 1989 through November 1990, and he cannot remember whether he advised the complainant that he had moved.
6. After he moved to Richmond, Mr. Talty agreed to pursue a permanent total disability award for the complainant.
7. In January 1996, the Worker's Compensation Appeal Board dismissed a related appeal due to Mr. Talty's failure to file a brief in a timely manner.
8. Mr. Talty got the appeal reinstated, but it was denied in September 1996, and in November 1996, Mr. Talty filed a petition for appeal to the West Virginia Supreme Court.
9. The West Virginia Supreme Court denied the appeal.
10. Thereafter, Mr. Talty failed to return the complainant's numerous telephone calls and to apprise the complainant in writing of the status of the appeal.
11. When he was interviewed by a Virginia State Bar investigator on July 6, 1998, Mr. Talty admitted that, although he had spoken with the complainant after the bar complaint was filed, he did not advise him that the West Virginia Supreme Court had denied his appeal.
12. On September 15, 1998, a Third District, Section Three, Subcommittee consisting of Alan R. Kern, lay member; Janipher W. Robinson, Esquire; and Thomas O. Bondurant, Jr., Esquire, presiding Chair, convened to consider an agreed disposition in the above-described matter.
13. The subcommittee accepted the proposed agreed disposition and, on March 8, 1999, issued a Private Reprimand

with Terms, based upon its findings that Mr. Talty had violated DRs 6-101(A) and (B).

14. The Private Reprimand with terms provided that Mr. Talty had to meet the following terms and conditions by December 31, 1999:
 - a. Mr. Talty consent to the bar's referral of him to Lawyers Helping Lawyers for whatever type of assessment Lawyers Helping Lawyers deems appropriate to determine if Mr. Talty is suffering from a disability that affects his conduct as a lawyer.
 - b. If the assessment indicates that Mr. Talty has such a disability, Mr. Talty's agreement to complete the recommended course of treatment or counseling.
 - c. If it is deemed appropriate by Lawyers Helping Lawyers, Mr. Talty's consent to entering into a monitoring contract with Lawyers Helping Lawyers.
 - d. In the event that a monitoring contract is not deemed appropriate, Mr. Talty's consent to Lawyers Helping Lawyers advising the undersigned bar counsel as to whether Mr. Talty has completed the recommended course of treatment or counseling.
 - e. These terms and conditions are to run currently with the terms and conditions imposed in In the Matter of William B. Talty, VSB Docket No. 98-033-1788.
15. After hearing evidence, the committee determined that Mr. Talty had breached a monitoring contract with Lawyers Helping Lawyers and thereby failed to comply with the terms of the Private Reprimand.

II. NATURE OF MISCONDUCT

The Respondent has violated the following Rules of the 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 committee to impose the alternate disposition of a public reprimand, and the Respondent is hereby so reprimanded.

THIRD DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By James L. Banks, Jr., Committee Chair
Certified March 20, 2000



BEFORE THE FIRST DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
RICHARD SCOTT YAROW
VSB Docket No. 99-010-1893

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND)

On March 9, 2000, a hearing in this matter was held before a duly convened First District Committee panel consisting of J. Wayne Sprinkle, Esquire; John D. Eure, Jr., Esquire; William H. Monroe, Jr., Esquire; Robert W. Carter, lay member; and Michael S. Mulkey, Esquire, presiding.

The Respondent, Richard Scott Yarow, appeared in person with his counsel, W. Charles Waddell, III, Esquire. Edward L. Davis, Assistant Bar Counsel, appeared for the Virginia State Bar.

Whereupon the parties announced that they had agreed upon a stipulation of facts, Disciplinary Rule violations, and appropriate sanction to recommend to the panel. The panel adjourned to deliberate and found the stipulation of facts and proposed sanction appropriate. Accordingly, pursuant to Part Six, Section IV, Paragraph 13(B)(7) of the Rules of the Supreme Court, the First District Committee of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand:

I. STIPULATIONS OF FACT

1. During all times relevant hereto, the Respondent, Richard Scott Yarow (hereinafter Respondent or Mr. Yarow), was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On July 17, 1998, Mr. Yarow filed an Application for Placement on the Court Appointed List of the Circuit Court of the City of Norfolk. One of the prerequisites for placement on the Norfolk court-appointed list was for the attorney's principal office to be located in the City of Norfolk, Virginia. Mr. Yarow did, in fact have an office in Norfolk when he made the application, but it was not his principal office.
3. When he filed the application with the Norfolk Circuit Court, Mr. Yarow falsely certified that his principal office was located in the City of Norfolk, Virginia, when in fact it was located in the City of Hampton, Virginia. Mr. Yarow explained that he did not expect to receive court appointments from Norfolk until the following year, during a time when he expected that his principal office would be in Norfolk. His application and cover letter, however, made no mention of this. Nevertheless, he agreed to substitute for one day in the Fall of 1998 and received cases on that day.
4. According to the Supervising Judge of the court-appointed counsel program for the Circuit Court of the City of Norfolk, Mr. Yarow's representation that his principal

office was in Norfolk was crucial in entertaining his application for placement on the court-appointed list. Otherwise, according to the Judge, Mr. Yarow would have been ineligible.

5. Other mitigating factors recognized by the ABA Standards for Imposing Lawyer Sanctions include Mr. Yarow's cooperation and lack of a prior disciplinary record.

II. NATURE OF MISCONDUCT

The Committee finds that the Stipulations of Facts give rise to violations of the following Disciplinary Rules:

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

III. PUBLIC REPRIMAND

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

FIRST DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By Michael S. Mulkey, Chair
Certified April 7, 2000

