

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
Supreme Court				
Bruce Charles Britton	Reston	Reinstatement Denied	April 2, 1991	31
Circuit Court				
Alan Jay Climan	Fairfax	One Year Suspension	July 29, 2000	34
Disciplinary Board				
Daniel Wood Aldredge	Richmond	One Year Suspension	July 21, 1998	35
Marlow Webster Cook, Jr.	Alexandria	Two Year Suspension	April 23, 1999	35
Dennis Eugene Jones	Lebanon	60 Day Suspension	January 29, 1999	36
Bruce Wilson McLaughlin	Leesburg	Interim Suspension	April 8, 1999	38
George E. Talbot, Jr.	Portsmouth	Public Reprimand w/Terms	May 13, 1999	38
Steven Ray Want	Christiansburg	Revocation	March 26, 1999	40
District Committee				
Paul Cornelious Bland	Petersburg	(2) Public Reprimand w/Terms	May 11, 1999	42
Donald Edward Earls	Norton	Public Reprimand	April 8, 1999	46

Surrenders with Disciplinary Charges Pending

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

Respondent's Names	Address of Record (City/County)	Jurisdiction	Date of Revocation
Rodney Goode Goggin	Falmouth	Disciplinary Board	October 13, 1998
Gary Alan Howard	Manassas	Disciplinary Board	June 22, 1999
Evans Butler Jessee	Roanoke	Disciplinary Board	April 23, 1999
William Andrew Kennedy	Blountville, TN	Disciplinary Board	June 11, 1999
Francis Anderson Porter	Midlothian	Disciplinary Board	May 26, 1999
David Duncan Reynolds	Arlington	Disciplinary Board	May 26, 1999

Supreme Court

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 2nd day of April, 1999.

In the Matter of
BRUCE CHARLES BRITTON

On May 12, 1997 came Bruce Charles Britton and filed a petition for reinstatement of his license to practice law in this Commonwealth.

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

The Court having considered the record of the hearing and the recommendation of the said Disciplinary

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

A Copy,
Teste:
David A. Reed, Clerk

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
BRUCE CHARLES BRITTON
VSB DOCKET NO. 97-000-2742

RECOMMENDATION ORDER

On May 22, 1998, this matter came on for hearing upon the Petition for Reinstatement of the license of Bruce Charles Britton to practice law in the Commonwealth of Virginia. The hearing was held before a duly convened

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panel of the Virginia State Bar Disciplinary Board consisting of John A. Dezio, Eric N. Davidson, Joseph B. Hudson, Jr., William M. Moffet and Virginia W. Powell, Vice Chair, presiding.

Bruce Charles Britton appeared in person and proceeded *pro se*.

James W. Carroll, Jr. appeared as counsel for the Virginia State Bar.

Prior to the hearing, a letter with a copy of the Order of the Circuit Court of Fairfax revoking his license was sent to all attorneys residing and/or practicing law within the Fifteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth and Thirty-First Judicial Circuits inviting written comments and/or appearances by said attorneys before the Board at the May 22, 1998 hearing. Similar letters were written to the two individuals who were key participants in the two matters which gave rise to the Order of Revocation. Similar letters were sent to members of the Fifth District committee – Sections I, II and III for the current fiscal year and to the former members of the Tenth District Committee – Sections I, II and III for the fiscal years 1987-1988, 1988-1989 and 1990-1991. Moreover, a press release announcing the purpose, date, time and place for this hearing was sent to in excess of 100 newspapers, radio stations and television stations. In response to the above, the Board received four letters in opposition to reinstatement and no letters in favor of reinstatement. The three individuals who wrote letters in opposition to reinstatement had no personal knowledge of the petitioner or his misconduct, but expressed their opposition to reinstatement based upon their review of the Order of Revocation. No one appeared at the hearing to testify against reinstatement. The petitioner called five witnesses who testified in support of his Petition for Reinstatement. In addition, Mr. Britton testified. Bar counsel for the Virginia State Bar called one witness. Bar counsel for the Virginia State Bar did oppose reinstatement of Mr. Britton's license.

The Petition for Reinstatement was referred to this Board for recommendation pursuant to Part Six: Section IV, Paragraph 13(J) of the Rules of the Supreme Court of Virginia. It is the unanimous recommendation of this Board to the Virginia Supreme Court that the Petition for Reinstatement of Bruce Charles Britton for reinstatement of his license to practice law in the Commonwealth of Virginia be denied.

Petitions for reinstatement present difficult issues for the Board, and must be approached on a case-by-case basis. Part Six: Section IV, Paragraph 13(J) of the Rules of the Supreme Court of Virginia states that a petitioner in a reinstatement case must show by clear and convincing evidence, "that he or she is a person of honest demeanor and

good moral character and that he or she possesses the requisite fitness to practice law." In the past, this Board has conducted a case-by-case analysis of this standard by looking at the criteria set forth in this body's opinion In The Matter of Albert L. Hiss, Docket No. 83-26, dated May 24, 1984. The criteria set forth in that opinion are:

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

The Board looked at all ten criteria in reaching a decision in this case. First, Mr. Britton's license to practice law in the Commonwealth of Virginia was suspended for the period of five years effective May 21, 1989, following an April 21, 1989 hearing before this Board concerning three complaints. In one of the cases, this Board found that Mr. Britton was untruthful to his client on two occasions in communicating settlement offers to his client. In another one of the cases giving rise to the suspension, this Board found that Mr. Britton instructed his client to deceive two treating physicians in connection with his handling of two personal injury matters for the client. On August 21, 1989, exactly three months after the effective date of his Order of Suspension, Mr. Britton appeared before a Commissioner in Chancery and represented a client in a divorce proceed-

ing. Mr. Britton was subsequently tried and convicted of the misdemeanor of practicing law after his license had been suspended and without authorization to do so. On December 13, 1991 in the Circuit Court of Fairfax County, a three judge panel revoked Mr. Britton's license to practice law for continuing to practice law after his license had been suspended and for violations of various aspects of Cannon 9 involving record-keeping of trust accounts. At the hearing before this Board, Mr. Britton conceded that the divorce matter he handled following his suspension was not the only legal matter he handled following his suspension. In his Petition for Reinstatement, Mr. Britton explained his conduct in handling the divorce matter after being suspended as follows: "petitioner wilfully conducted the hearing because he thought he could get away with it, he thought it would not harm anyone. Also, and most important to the Petitioner at the time, he would be avoiding giving notice of his suspension." Thus, he deceived his client in this divorce matter by not disclosing to him that his license had been suspended and did this because he did not want to be embarrassed by disclosing the suspension to his client and because he thought he could get away with the action. Thus, the past misconduct which gave rise to the suspension which then gave rise to the revocation involved Mr. Britton's being deceitful to his clients, encouraging a client to be deceitful to treating physicians and trust account violations. While there was no evidence that he ever expended any of his clients' funds, there was evidence of commingling of personal and client funds and wholly inadequate record-keeping. The Board considers these types of misconduct to be extremely serious inasmuch as they go to a lawyer's integrity and his fiduciary responsibilities to his clients

Second, Mr. Britton was 50 years old at the time of his revocation. He had been practicing law for approximately 20 years at the time of his revocation.

Third, six and one-half years have elapsed since Mr. Britton's license was revoked, but two and one-half of those years was time he would have been without a license to practice law anyway because of his prior suspension. Thus, the amount of time he has been unable to practice law solely because of the revocation has been approximately four years.

Fourth, there have been no financial losses to his clients as a consequence of his actions and he has paid the bar the costs assessed against him in connection with the prior disciplinary proceedings.

Fifth, the Petitioner has been gainfully employed with the Department of Veterans Affairs since 1988. By all accounts, he has performed admirably in this position. Two co-workers testified on his behalf and had nothing but good things to say about his job performance. In addition,

Mr. Britton has been active in his church and his pastor and other members of his congregation testified at this hearing that his activities and attitude exhibited within the church have been admirable.

Sixth, the Petitioner presented evidence that his reputation and standing in both his work place and his church are exemplary.

Seventh, the Petitioner submitted documentary evidence that since 1995, he has earned in excess of 280 CLE credits, more than 50 of which were in legal ethics. He has also taken and passed the Multistate Professional Responsibility Examination. From this, the Board assumes that his current familiarity with the Virginia Code of Professional Responsibility is good, but is not in a position to assess his current proficiency in the law.

Eighth, while six and one-half years have elapsed since the Petitioner's license was revoked, the Board believes that revocation was the appropriate punishment for Petitioner's actions and that it has not been demonstrated by clear and convincing evidence that his license should be reinstated.

Ninth, the evidence on the Petitioner's sincerity, frankness and truthfulness in presenting and discussing factors relating to his disbarment and reinstatement was mixed. On the one hand, Mr. Britton seemed very forthright in conceding to the Board that he had done wrong and in not offering excuses for his prior misconduct. On the other hand, the Virginia State Bar called one individual as a witness who had previously been listed as a character witness for the Petitioner. After this individual was interviewed by an investigator with the Virginia State Bar, the individual was not called as a character witness for the Petitioner, but was called as a witness for the Virginia State Bar. This individual testified that when Mr. Britton was discussing with this individual the possibility of his giving character testimony, Mr. Britton advised this individual that the reason he did not have a license to practice law was because he had simply allowed the license to lapse. He was not forthright with that witness in explaining the circumstances concerning his Petition. In addition, there were a couple of points asserted by Mr. Britton in his Petition for Reinstatement which were not supported by the evidence.

Tenth, the Board believes that public confidence would be undermined and the administration of justice hindered if this Board were to recommend reinstatement of an attorney who has been deceitful to his clients, advised his clients to be deceitful to others and has knowingly and wilfully violated lawful orders of this Board because he thought he could get away with a violation of the Order and because he thought complying with the Order would cause him too much embarrassment.

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After considering the factors discussed above, it is the unanimous opinion of this Board that the Petitioner has not shown by clear and convincing evidence that he is a person of honest demeanor and good moral character and that he possesses the requisite fitness to practice law.

Accordingly, it is the unanimous recommendation of this Board that the Virginia Supreme Court deny Bruce Charles Britton's Petition for Reinstatement.

Pursuant to Part Six: Section IV, Paragraph 13(K)(10) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs. The assessed costs are as follows:

Copying	\$2,035.58
Transcript	649.50
Mailing of Notice of Hearing	3,481.95
Witness Expenses	-0-
Administrative Fee	<u>\$300.00</u>
TOTAL COSTS	\$6,467.03

ENTERED this 29th day of December, 1998
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Virginia W. Powell, Chair



Circuit Court

IN THE CIRCUIT COURT
OF THE COUNTY OF FAIRFAX

VIRGINIA STATE BAR, EX REL
FOURTH DISTRICT COMMITTEE,
Complainant

v.

ALAN JAY CLIMAN, ESQ.

Respondent

Chancery No. 155228

ORDER

On August 24, 1998, the above-referenced matter was heard before a Three Judge Court designated by the Honorable Harry Carrico, Chief Justice of the Virginia Supreme Court, pursuant to Va. Code §54.1-3935 on a Complaint and Petition for Rule to Show Cause filed by the Virginia State Bar against the Respondent alleging professional misconduct and violation of certain Disciplinary Rules in the Virginia Code of Professional Responsibility.

The Virginia State Bar appeared by counsel, James W. Carroll, Jr. and the Respondent, Alan Jay Climan, appeared in person representing himself.

WHEREUPON, upon consideration of the testimony of the witnesses and the documentary evidence introduced, this Three Judge Court finds that the Respondent is guilty, by clear and convincing evidence, of the following Charges of Misconduct set forth in the Complaint and Petition for Rule to Show Cause filed by the Virginia State Bar, in that the Respondent, during the course of his representation of Margaret Schaefer, violated the following Disciplinary Rules set forth in the Virginia Code of Professional Responsibility.

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

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

DR 2-108. (D) ***

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

DR 9-102. (B) (3) and (4) ***

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

DR 9-103. (B) (1) (a), (b) (c) (i), (ii), (iii), (d), (c) and (f) ***

DR 9-103. (B)(2), (3), (4) (a), (b), (5) (a), (b), (c) and (6) ***

WHEREFORE, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is SUSPENDED for a period of one (1) year, and said suspension to be served consecutively with the two (2) year suspension imposed by the Virginia State Bar Disciplinary Board in VSB Docket Nos. 94-042-0079 and 94-042-0265 by its order entered July 23, 1998.

However, if Respondent obtains a stay of the two-year suspension pending the appeal of said two (2) year suspension, the one (1) year suspension imposed herein shall commence upon the effective date of the order of stay in the two cited VSB cases. At no time shall Respondent be able to serve both suspensions simultaneously. Should Respondent successfully appeal the two (2) year suspension, the one (1) year suspension herein shall commence upon the date of the final order of the appellate court.

It is the further FINDING, upon due consideration, of the Three Judge Court that the remaining Disciplinary Rules that were charged were not proven by clear and convincing evidence.

ENTERED this 15th day of September, 1998

By Lee A. Harris, Jr., Chief Judge

H. Selwyn Smith, Judge

William L. Winston, Judge



Disciplinary BoardBEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of

Daniel Wood Aldredge

VSB Docket Nos. 95-033-0752

95-033-0982

ORDER

This matter came before the Board on February 26, 1999, as previously noticed, before a duly appointed panel consisting of Virginia W. Powell, Chair, Richard J. Colten, Eric N. Davidson, William M. Moffet and Roscoe B. Stephenson, III. Daniel Wood Aldredge was present at the hearing and was represented by Rhett M. Daniel. Edward L. Davis represented the Virginia State Bar. * * *

The purpose of the hearing was for Aldredge to show cause why the alternative disposition of an additional one year suspension should not be imposed as a result of his failure to comply with the terms of an Order entered by this Board on August 23, 1996. At the show cause hearing, the following pertinent facts were presented to the Board:

1. The August 23, 1996 Order suspended Mr. Aldredge's license for a period of time to run concurrently with the suspension of his license imposed by the Board in Case No. 94-033-2151. [*Virginia Lawyer Register*, November 1996] Under the terms of said Order, Mr. Aldredge was not eligible to seek licensure earlier than July 21, 1998.
2. One of the terms imposed by the Order was that he would continue with therapy from health care professionals and would give his health care providers a release so that they could provide the Virginia State Bar with periodic reports as to his treatment and progress. Mr. Aldredge complied with this term.
3. Another term of the Order was that Mr. Aldredge was to attend twelve (12) hours of continuing legal education, in addition to the annual requirements imposed by the Virginia Supreme Court Rules. It was agreed by Mr. Aldredge that he understood that this requirement was to be completed on or before July 21, 1998. Mr. Aldredge conceded that he did not comply with this requirement on or before July 21, 1998.

All of the above was established by clear and convincing evidence. Thus, under Virginia State Bar Disciplinary Board Rule IV(D) (11), the Board is required to impose the alternative disposition. The alternative disposition set

out in the August 23, 1996 Order was an additional year of suspension running from July 21, 1998 through July 20, 1999.

Accordingly, it is hereby ORDERED that the license of Daniel Wood Aldredge to practice law in the Commonwealth of Virginia be, and hereby is, suspended for an additional one year beginning on July 21, 1998 and terminating on July 20, 1999.

* * *

ENTERED this 30th day of April, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Virginia W. Powell, Chair

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of

MARLOW WEBSTER COOK

VSB Docket No. 95-041-1390

ORDER

This matter came to be heard on April 23, 1999, before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Bruce T. Clark, John A. Dezio, Karen A. Gould, Werner H. Quasebarth and Carl A. Eason, Vice Chair, presiding.

The Respondent, Marlow Webster Cook, Jr., appeared pro se. James W. Carroll, Jr., Assistant Bar Counsel, appeared as counsel for the Virginia State Bar.

This matter came before the Board pursuant to Virginia State Bar Disciplinary Rules of Procedure IV(D)(11), to show cause why the alternative disposition should not be imposed as ordered in the Disciplinary Board Order entered March 6, 1997.

FINDINGS OF FACT

The following facts were stipulated by Bar Counsel and Respondent, who appeared pro se. The Board adopts the stipulations of fact, as set forth below:

1. On February 7, 1997, the Virginia State Bar Disciplinary Board accepted an Agreed Disposition entered into by the Bar and the Respondent, in which it was admitted that Respondent had violated Rules 1-102(A)(4) and 9-102(A)(1) and (2) of the Code of Professional Responsibility by failing to turn over client funds to his law firm. The sanction imposed was a nine-month suspension of the

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Respondent's license to practice law during which suspension the Respondent was to complete eight hours of Continuing Legal Education in ethics. The Respondent was obligated to certify his compliance with this term with the Clerk of the Disciplinary System. The Order further provided, pursuant to Part Six, Section IV, Paragraph 13(K)(1) of the Rules of the Supreme Court of Virginia, that the Respondent was to give notice to all clients, opposing attorneys and judges in pending litigation of his suspension, and the Clerk of the Disciplinary System was to be provided with copies of these notice letters. In the event that the Respondent did not have any pending cases or clients, the Rules provide that he could notify the Clerk of the Disciplinary System of that fact, in lieu of copies of the notice letters.

2. Respondent did not comply with the term imposed by the March 6, 1997 Order [*Virginia Lawyer Register*, May 1997] in which he was required to obtain 8 CLE hours in ethics and then report such compliance to the Clerk of the Disciplinary System.

3. The Virginia State Bar did not have any record of the Respondent's compliance with Rule 13(K)(1) as of April 22, 1999.

4. The Virginia State Bar and the Respondent agree that the alternate sanction of a two-year suspension of the Respondent's license should be imposed, although there is no stipulation of agreement as to when that sanction would start to run (i.e., immediately after the expiration of the original nine-month suspension or some other time period).

RULE 13(K)(1) VIOLATION

The Respondent maintains that he has had no clients and has not practiced law since approximately December 20, 1994. He filed an Affidavit with the Board at the hearing on April 23, 1999, attesting to the fact that he had no clients as of April 23, 1999, which the Board accepts and files with the other papers in this matter. The Respondent stated that he thought he had previously forwarded a letter to the Virginia State Bar to comply with Rule 13(K)(1), however, he was unable to produce a copy of said letter, and the Bar was not in possession of same.

The Board finds that the Respondent failed to comply with the notification requirements of Rule 13(K)(1), as required by the Order of March 6, 1997.

IMPOSITION OF ALTERNATIVE SANCTION

Based upon the Respondent having admitted that he failed to comply with the Terms of the March 6, 1997 Order and the finding that the Respondent failed to com-

ply with the notification requirements of Rule 13(K)(1), the Board orders that the alternative disposition of a two-year suspension be imposed. The Board further orders that the two-year suspension be effective as of April 23, 1999.

Accordingly, it is ORDERED that the license of Marlow Webster Cook, Jr., to practice law in the Commonwealth of Virginia be and hereby is suspended effective April 23, 1999, for a two-year period.

* * *

ENTERED this 15th day of June, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Vice Chair



BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

In the Matter of
DENNIS EUGENE JONES
VSB Docket No. 98-102-0911

ORDER OF SUSPENSION

On January 22, 1999, this matter came on for hearing before the Virginia State Bar Disciplinary Board. The charges were certified directly by the Tenth District Subcommittee, Section II, of the Virginia State Bar. The Respondent was properly noticed for hearing in the manner prescribed by the rules of the Virginia Supreme Court.

The hearing was convened before a duly convened panel of the Disciplinary Board, there being no conflicts. The panel consisted of Michael A. Glasser, Esquire, Karen A. Gould, Esquire, Robert C. Elliott, II, Esquire, Werner H. Quasebarth, Lay Member and Henry P. Custis, Jr., Esquire, Vice-Chair, presiding. The Respondent, Dennis Eugene Jones, appeared in person and by Counsel, Jay Hanson Steel, Esquire, of Lebanon, Virginia. The Virginia State Bar was represented by Richard E. Slaney, Assistant Bar Counsel.

Counsel for the Respondent, Mr. Steele, and for the Bar, Mr. Slaney, tendered a stipulation of facts to the Board which was accepted as the basis for the case.

That stipulation of facts was:

1. At all times material to the issues in this matter, the Respondent, Dennis Eugene Jones (Mr. Jones), was an attorney licensed to practice law in the Commonwealth of

Virginia. Dennis E. Jones and Associates, P.C. is a professional corporation organized and existing under the laws of the Commonwealth of Virginia. Three hundred (300) shares of stock have been authorized with one hundred (100) shares having been issued. Dennis E. Jones is the sole shareholder of Dennis E. Jones and Associates, P.C.

2. On or about October 15, 1997, Mr. Jones wrote check no. 1320 payable to the I.R.S. (the IRS check) in the amount of \$19,734.00. The IRS check was written on account no. 10015097 (the Operating Account) maintained by Dennis E. Jones and Associates, P.C., at the First Bank & Trust Company in Lebanon, Virginia (the Bank). In the explanation portion of the check is the phrase "1996 Form 1040."

3. On October 28, 1997, the Operating Account had a balance of \$8,902.30.

4. On October 29, 1997, the IRS check was presented to the Bank for payment.

5. Mr. Jones instructed Ms. (Linda) Rakes (a bank officer) to transfer \$10,000.00 from account no. 10015923 maintained at the Bank (the Vella Horton Account) to the Operating Account. Ms. Rakes did so, completing a debit slip dated October 29, 1997.

6. The \$10,000.00 debited from the Vella Horton Account was deposited into the Operating Account on October 29, 1997.

7. Mr. Jones instructed Ms. Rakes to transfer \$1,000.00 from account no. 10014496 maintained at the Bank (the Combs-Honaker Account) to the Respondent's Operating Account.

8. The \$1,000.00 debited from the Combs-Honaker Account was deposited into the Operating Account on October 29, 1997.

9. Following the two transfers described above, the IRS check was posted to the Operating Account and paid.

10. The \$10,000.00 transferred from the Vella Horton Account to the Operating Account represented the gross proceeds of a personal injury settlement Chris Fields, Esquire, an associate with Dennis E. Jones and Associates, P.C., negotiated on behalf of Vella Horton, the firm's client, of which Vella Horton was entitled to \$6,500.00 as her net proceeds.

11. Mr. Jones did not seek or receive authorization from Vella Horton to transfer the \$10,000.00 from the trust account to the Dennis E. Jones and Associates, P.C., general operating account.

12. On November 7, 1997, Vella Horton received from Dennis Jones and Associates, P.C., all sums to which she was entitled as a result of her personal injury settlement.

NATURE OF MISCONDUCT

The Bar alleged in its case that the Respondent had violated the following Disciplinary Rules of the Code of Professional Responsibility:

DR1-102. (A) (3), (4)

DR2-105. (A), (C) and

DR9-102. (B) (1), (3), (4)

The Respondent, by counsel, indicated agreement that DR1-102. (A) (3), (4) had been violated and that there was an arguable violation of DR9-102. (B) (3) (4).

The Bar's position in this matter was that the Respondent, Mr. Jones, transferred funds from two trust accounts into his general account to cover a check written to the Internal Revenue Service. There were not enough funds to cover the check when written or thereafter up to the date of presentation. The transfer of funds accomplished by the Respondent yielded enough funds to cover the IRS check.

The Respondent, in his own defense, testified that he was in New York City at a meeting when the IRS check reached the bank, and that he was not aware that the check had been presented for payment. Further, that he transferred the funds in question for other reasons and not to meet the obligation of the IRS check. He testified that he believed the \$1,000.00 transfer of funds represented a reimbursement of costs to which his firm was entitled and that the second transfer (\$10,000.00) of funds represented proceeds from a personal injury case that he did not know existed and which had not been handled according to established office procedure.

A sworn affidavit from the bank officer who made the transfers indicated that she could not recollect whether or not she made the Respondent aware that the IRS check had arrived and that some specific procedure would have been necessary to make that check good.

The Respondent's records and exhibits indicated that immediately upon his return to his office after the New York meeting, he made the transfer of the personal injury funds good to his client by paying her in full all proceeds coming to her. He also testified and indicated by records the amount of costs associated with the second transfer.

He freely admitted that the commingling of funds was improper and in violation of DR1-102 (A) (3).

III. SUSPENSION

Upon consideration whereof, and with emphasis on the fact that the Respondent has had other contacts with the Disciplinary System, that the license of Dennis Eugene Jones to practice law in the Commonwealth of Virginia be suspended for a period of sixty (60) days commencing January 29, 1999, and it is so ORDERED.

* * *

ENTERED this 1st day of April, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Henry P. Custis, Jr., Vice-Chair



BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
BRUCE WILSON McLAUGHLIN
VSB Docket No. 99-000-2297

RULE TO SHOW CAUSE
AND ORDER OF SUSPENSION AND HEARING

It appearing to the Board that Bruce Wilson McLaughlin was licensed to practice law within the Commonwealth of Virginia on August 26, 1980, and,

It further appearing that Bruce Wilson McLaughlin was convicted of felonies on February 8, 1999, in the matter of Commonwealth of Virginia vs. Bruce Wilson McLaughlin, Criminal No. 11592, Circuit Court of Loudoun County, and

It further appearing that Bruce Wilson McLaughlin has been convicted of a crime, as defined by the Rules of Court, Part 6, §IV, ¶13(A).

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

It is further ORDERED that Bruce Wilson McLaughlin appear before the Virginia State Bar Disciplinary Board at the State Corporation Commission, Tyler Building, 1300 East Main Street, Second Floor, Courtroom B, Richmond, Virginia 23219, at 9:00 a.m., on April 23, 1999, 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 Circuit Court of Loudoun County, entered February 8, 1999, be attached to this Rule to Show Cause and Order of Suspension and Hearing and made a part hereof.

* * *

ENTERED this 8th day of April, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
by Virginia W. Powell, Chair

(EDITOR'S NOTE: Attachment is available upon request. The matter was continued generally. Mr. McLaughlin's license remains suspended.)



BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
GEORGE E. TALBOT, JR.
VSB Docket No. 98-010-0183

ORDER

This matter came to be heard on January 19, 1999 upon an agreed disposition between the Virginia State Bar and the Respondent, George E. Talbot, Jr.

A duly convened panel of the Virginia State Bar Disciplinary Board consisting of Werner H. Quasebarth, Lay Member; Bruce T. Clark, Esq.; Karen A. Gould, Esq.; D. Stan Barnhill, Esq.; and Virginia W. Powell, Esq., Chair presiding, considered the matter by telephone conference. The Respondent, George E. Talbot, Jr., appeared pro se. Edward L. Davis, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar.

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

I. STIPULATIONS OF FACT

1. During all times relevant hereto, the Respondent, George E. Talbot, Jr. (hereinafter Respondent or Mr. Talbot) was an attorney licensed to practice law in the Commonwealth of Virginia.

2. On September 24, 1992, Mr. Talbot qualified as executor of the estate of Ruth M. Toombs before the Cir-

cuit Court of the City of Chesapeake. The inventory was due on January 24, 1993, and the accounting in 1994.

3. Mr. Talbot failed to file either the inventory or accounting, prompting a notice of delinquency letter from Commissioner of Accounts John Page Garrett on October 1, 1996. Mr. Talbot failed to respond or comply with the notice of delinquency letter, prompting Mr. Garrett to request a summons for Mr. Talbot to return a full inventory and statement of receipts and vouchers within one month.

4. Mr. Talbot was personally served with the summons on June 2, 1997, but failed to respond. On July 15, 1997, Mr. Garrett filed a report of the Commissioner of Accounts with the Circuit Court requesting a rule to show cause against Mr. Talbot. Judge Russell I. Townsend, Jr. then issued an order requiring Mr. Talbot to appear before the court on August 13, 1997.

5. By August 13, 1997, Mr. Talbot complied with the order by filing an inventory and a settlement of accounts. The show cause was dismissed upon Mr. Garrett's request.

6. According to Mr. Garrett, he has the discretion to extend filing deadlines and does so upon request if the action is appropriate. Mr. Talbot, however, never asked for an extension of any filing deadlines. Mr. Talbot said that he set the matter aside when he and his wife tried to locate a heart specialist for her heart problem, which was followed by her hospitalization in Boston during August of 1997.

7. Mr. Garrett did not approve Mr. Talbot's settlement of accounts because he needed additional information which Mr. Talbot did not provide. Mr. Talbot did not respond to Mr. Garrett's October 29, 1997 letter requesting additional information about the settlement of accounts.

8. The First District Committee offered Mr. Talbot the opportunity to comply with certain terms and conditions. Among the terms was for Mr. Talbot to make all necessary filings with the Commissioner of Accounts concerning the Estate of Ruth M. Toombs, the Katherine Toombs trust, and the Christian A. Toombs trust by September 5, 1998. Mr. Talbot subsequently failed to file a complete and satisfactory settlement of accounts. Accordingly, Mr. Garrett obtained another rule to show cause during September, 1998. The morning of the show-cause hearing on October 21, 1998, Mr. Talbot sought Mr. Garrett's assistance with the accounting. With Mr. Garrett's assistance, Mr. Talbot produced an accounting which the Circuit Court found to be satisfactory following a hearing on December 2, 1998. The District Committee, however, could find no credible reason or excuse for Mr. Talbot not filing the required accountings by September 5, 1998 in accordance with the Committee's terms.

9. On January 5, 1999, Commissioner of Accounts John Page Garrett advised the Virginia State Bar that Mr. Talbot has complied with all of his directives and submitted estate accountings and filings satisfactory to him.

II. NATURE OF MISCONDUCT

The following Disciplinary Rules are deemed to have been violated:

DR 6-101. (B) * * *

III. DISPOSITION

Upon consideration whereof, the Board hereby issues a **Public Reprimand with Terms** to the Respondent, George E. Talbot, Jr., effective upon entry of this Order. The alternate sanction is a **TWELVE (12)-month suspension** of his license to practice law in the Commonwealth of Virginia. The Terms of this Disposition are as follows:

1. The Respondent, George E. Talbot, Jr., is hereby placed on probation for a period of TWELVE (12) MONTHS, said period to begin on the date of entry of this order. Mr. Talbot will engage in no professional misconduct as defined by the Code of Professional Responsibility during such 12-month probationary period. Any final determination of misconduct determined by any District Committee, the Disciplinary Board, or a three-judge court to have occurred during such period will be deemed a violation of the terms and conditions of this Public Reprimand with Terms and will result in the imposition of the alternate sanction. The alternate sanction will not be imposed while Mr. Talbot is appealing any adverse decision which might result in a probation violation.

2. By December 31, 1999, the Respondent will complete an additional four hours of Continuing Legal Education on the subject of ethics for no annual Continuing Legal Education credit.

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

disciplinary actions

the alternate sanction shall be in addition to any other sanctions imposed for misconduct during the probationary period.

ENTERED this 13th day of May, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Virginia W. Powell, Chair



BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

In the Matter of
STEVEN RAY WANT
VSB Docket No. 97-101-2163

This matter came to be heard on March 26, 1999, before a panel of the Virginia State Bar Disciplinary Board composed of Carl A. Eason, Vice Chair, Bruce T. Clark, John A. Dezio, Dennis P. Gallagher, and Frank B. Miller, III. The Respondent, Steven Ray Want, appeared in person. Richard E. Slaney, Assistant Bar Counsel, appeared as counsel to the Virginia State Bar. * * *

The matter came before the Board upon the Tenth, Section I, District Subcommittee Determination (Direct Certification) served upon Steven Ray Want by Certified Mail, Return Receipt Requested, on October 15, 1998, at his address of record.

The Board, after hearing the evidence and the admissions of Respondent made at the hearing in this case, and reviewing the Exhibits admitted into evidence in this case, along with the Stipulations of the parties, finds that the Allegations of Fact spelled out in the Certification have all been proven by clear and convincing evidence. Those allegations are as follows:

1. At all times material to this Certification, the Respondent, Steven Ray Want (Mr. Want) was an attorney licensed to practice law in the Commonwealth of Virginia.

2. In 1993, the Complainant, David Smith (Mr. Smith) hired Mr. Want to pursue an action against a person who sold Mr. Smith a Corvette automobile (the case).

3. On or about January 7, 1994, Mr. Want filed a Motion for Judgment on behalf of Mr. Smith in the Circuit Court of the City of Roanoke (David Smith v. Roger Carter; CL94-27) against the person who sold Mr. Smith the Corvette automobile. An Answer to the Motion for Judgment was filed on the defendant's behalf by the defendant's attorney, Thomas Key (Mr. Key).

4. The case proceeded in the usual manner until March 29, 1995 when the Court entered an order permitting the filing of an amended Motion for Judgment. The order specifically stated any amended Motion for Judgment should not include John Churn as a defendant.

5. Thereafter, from March of 1995 to March of 1997 Mr. Want performed little or no work on the case. During this time period, Mr. Smith repeatedly asked Mr. Want to move the case along and set the matter for trial. On several occasions during this time period Mr. Want told Mr. Smith the case was set for trial, but each time indicated as the trial date approached that the case had been continued for various reasons.

6. Mr. Smith became frustrated with the constant continuances reported by Mr. Want and filed a complaint about Mr. Want with the Virginia State Bar in March of 1997.

7. After receipt of the complaint against him, Mr. Want filed an Amended Motion for Judgment in the case. Contrary to the Court's order, the Amended Motion for Judgment continued to refer to John Churn as a defendant. Mr. Want also showed Mr. Smith a court clerk's docket sheet signed by him bearing a trial date of May 29, 1997. In fact, the case was not docketed for trial on that date, and had never previously been set for trial.

8. Mr. Want filed a Praecipe and the case was set to be tried on July 30, 1997 at 1:30 p.m. Early in the morning on July 30, 1997, Mr. Want telephoned Mr. Smith, Mr. Want said the defendant was threatening bankruptcy and had offered to settle the case for \$4,850.00. Mr. Want convinced Mr. Smith to take the settlement. In fact, the defendant never threatened bankruptcy, never made a settlement offer and never sent any settlement funds to Mr. Want.

9. After convincing Mr. Smith to accept the purported settlement, Mr. Want contacted opposing counsel, Mr. Key, and said Mr. Smith would be unable to be present for trial and that he was going to dismiss the case.

10. After speaking with Mr. Key, Mr. Want telephoned the Judge's office and indicated the case was resolved and a trial that day would not be necessary. Mr. Want followed up on this phone call with a letter sent by fax to Judge Richard C. Pattisall, erroneously dated June 30, 1997, indicating the case was resolved and trial was unnecessary. This fax was actually sent July 30, 1997.

11. On July 31, 1997, Mr. Smith and his girlfriend, Sheena Snyder(*sic*), went to Mr. Want's office. At that time, Mr. Smith received a check drawn on Mr. Want's trust account (check no. 2864) in the amount of \$2,500. At the

time Mr. Smith received this check, the memo portion of the check read “Partial restitution”. Mr. Want told Mr. Smith and Ms. Snyder (*sic*) check no. 2864 represented the initial part of the settlement proceeds. One day later, on August 1, 1997, Mr. Want drew upon his credit line at Sovran Bank and wrote a check on that line of credit in the amount of \$2,500 payable to “Steven R. Want, Attorney” (check no. 149). The funds represented by check no. 149 were deposited into Mr. Want’s trust account.

12. When questioned by the Bar, Mr. Want stated check no. 2864 was given to Mr. Smith as a loan or an advance, and not as settlement proceeds. When the Bar requested and received a copy of check no. 2864 from Mr. Want, the writing in the memo portion had been altered to read “partial loan on partial restitution from Smith v. Carter.”

13. In a letter dated August 7, 1997 to the Clerk of the Circuit Court of the City of Roanoke, Mr. Want indicated the case had been settled for the amount of \$4,850. The letter indicates a copy was sent to opposing counsel, Mr. Key; however, Mr. Key never received any such letter.

14. On August 12, 1997, Mr. Smith went to Mr. Want’s office and received a check drawn on Mr. Want’s trust account (check no. 2873) in the amount of \$2,350. At the time Mr. Smith received this check, the memo portion of the check read “Smith v. Carter/Final Proceeds.” Mr. Want told Mr. Smith check no. 2873 represented the balance remaining on the settlement proceeds. One day later, on August 13, 1997, Mr. Want drew upon his credit line at Sovran Bank and wrote a check on that line of credit in the amount of \$2,350 payable to “Steven R. Want, Attorney” (check no. 150). The funds represented by check no. 150 were deposited into Mr. Want’s trust account.

15. When questioned by the Bar, Mr. Want stated check no. 2873 was given to Mr. Smith as a loan or an advance, and not as settlement proceeds. When the Bar requested and received a copy of check no. 2873 from Mr. Want, the writing in the memo portion had been altered to read “Smith v. Carter/Final Proceeds of Loan.”

The Certification spelled out the above facts, which the Board finds to have been proven by clear and convincing evidence, which demonstrate violation by Respondent of the following Disciplinary Rules of the Virginia Code of Professional Responsibility: DR 1-102 (A)(3)(4); DR 5-103 (B); DR 6-101 (B); DR 7-101 (A) (1)(2) and (3); and DR 9-102 (A) (1) and (2).

At the time of the hearing, the Respondent candidly admitted that in the handling of the matter for David Smith, he had violated DR 1-102 (A)(3) and (4), DR 5-103 (B), DR 6-101 (B) and DR 9-101 (A) (1) and (2). The par-

ties then presented evidence bearing on the allegations relating to DR 7-101 (A) (1), (2) and (3). Complainant, David Smith and Sheena Snider, testified *ore tenus*.

Mr. Smith advised that he was in contact with Respondent a number of times between March of 1995 and the time the Complaint was filed in this matter in March 1997. His estimate was that it may have been as much as one hundred times. He stated that Respondent advised that “He was working as fast as he could.” Mr. Smith further testified that Respondent advised that the case was set for trial on numerous occasions. On or about the trial dates, Mr. Smith testified that Respondent would advise him that the case was not going to be tried because the judge was sick or could not be there that day. Some time after March 9, 1997, Respondent showed Mr. Smith what has been identified as VSB Exhibit No. 7, a cover sheet for the civil action filed with the Court on which Respondent had typed “Docketed Trial Date: May 29, 1997.” Mr. Smith called the Clerk of the Court and found the case was not set for trial on that date. Respondent advised that he had talked with the Docket Clerk in the Circuit Court of the City of Roanoke and that that date was available but had not been confirmed. He had no real answer at the hearing as to why he had prepared this document and shown it to Mr. Smith.

Respondent was also asked why the case was not prepared on the scheduled trial on July 30, 1997, as this was his stated reason for not proceeding to trial on that date. Respondent claimed that the Complainant never gave him the name of the mechanic who examined the automobile in question prior to its purchase by Mr. Smith and never secured any written information for him as to the value of the vehicles exchanged by Mr. Smith for the Chevrolet Corvette in question.

Mr. Smith denied the above and testified that early in the case, he had the mechanic who examined the engine prior to purchase, Rob Fain, take a day off from work to go to Respondent’s office, where he was interviewed by Respondent, and denied that Respondent ever requested any written information on the value of the vehicles exchanged.

When asked whether he had any documentation of requests made to his client, Respondent testified that he had handwritten notes referring to his conversations with Mr. Smith. These notes were never produced to the Investigator for the Bar at the time he interviewed Respondent. These notes were not produced at the hearing, Respondent claiming he had left them in his office.

There was also testimony concerning the events around the trial date of July 30, 1997. Despite the contrary testimony of Respondent, the Board found clear and convincing evidence that Respondent advised the Complainant

and the Court that the matter had been settled when, in fact, this was not the case. The letter to the Court, VSB Exhibit No. 12, clearly states that the case has been "settled" and an amount is specifically spelled out. There is no doubt but that this letter was received by the Court in light of the acknowledgement stamp thereon. The Board further notes that even though the letter of Respondent to the Court shows a copy going to Thomas Key, the attorney for the defendant in the action brought by Mr. Smith, Key, in his Affidavit, denies receipt of a copy of said letter.

The Board noted the lack of candor of Respondent with the Bar with respect to the reasons VSB Exhibit Nos. 9 and 13 were altered prior to the time they were delivered to the Bar investigator, as shown on VSB Exhibit Nos. 10 and 14. Respondent's testimony that the memorandum portions of those checks was altered for his personal recollection is simply not believed. Were it not for the diligence of the investigator for the Virginia State Bar in getting copies of these checks from the bank in question, the lack of candor on the part of Respondent may not have been discovered, at least so far as the checks are concerned.

Based upon the above, the Board has no trouble finding from clear and convincing evidence that Respondent has violated DR 7-101 (A) (1), (2) and (3). The Board does note that in response to direct questions posed to Respondent during the hearing, Respondent admitted that he failed to carry out his contract of employment with Mr. Smith, and the record reveals that he never moved to withdraw from representing his client.

Respondent offered little, if any, evidence in mitigation except to demonstrate that he had no prior record with the Virginia State Bar, and further advised that during the latter part of 1997 and the early part of 1998 he sought counseling for depression following a broken engagement with his fiancée.

Respondent suggested that the appropriate sanction for the admitted violations of the DR's would be a reprimand conditioned upon CLE training. The Bar suggested that revocation was appropriate. The Board agrees with the Bar. While the initial violations of Respondent in not attending to the business of his client were bad enough, his actions following the filing of the complaint with the Virginia State Bar of March of 1997 were such that nothing short of revocation is justified. The Board has previously commented herein on the lack of candor of Respondent with his client and with the Court regarding the disposition of the lawsuit. Additionally, the Board had a problem with candor of the Respondent at the hearing. The Board further notes that the attempted cover-up activities demonstrate a pattern of conduct which cannot and will not be condoned by the Bar.

IT IS THEREFORE ORDERED that pursuant to Part 6, Section IV, ¶13C. (6)(c)(v) of the Rules of the Supreme Court that the license of Respondent, Steven Ray Want, to practice law in Virginia be, and the same is hereby, **REVOKED**, effective March 26, 1999 as set forth in the Board's Order dated March 26, 1999. * * *

ENTERED this 23rd Day of April, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Vice Chair



District Committee

BEFORE THE THIRD, SECTION I DISTRICT
SUBCOMMITTEE OF THE VIRGINIA STATE BAR

In the Matter of
PAUL CORNELIOUS BLAND
VSB Docket No. 97-031-2968

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On May 7, 1999, a meeting in this matter was held before a duly convened Third, Section I District Subcommittee consisting of John C. Gould, Esquire, Thomas F. Lee, and Russell O. Slayton, Jr., Esquire, presiding.

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

I. FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Paul Cornelious Bland (hereinafter "Mr. Bland"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On May 8, 1995, Colonial Heights Convalescent Center, Inc. (hereinafter "CHCC"), a creditor of the estate of James E. Wright, Sr. (hereinafter "Mr. Wright"), filed suit against the heirs of Mr. Wright's estate regarding unpaid bills which had been incurred by the decedent. In CHCC's bill of complaint, it requested that the Prince George County Circuit Court sell the property owned by Mr. Wright's estate in order to satisfy the debt owed by the estate to CHCC.

3. Thereafter, Commissioner in Chancery, Donald A. Stokes (hereinafter "Mr. Stokes") was appointed on August

7, 1995, *inter alia* to conduct the judicial sale of the real property owned by Mr. Wright's estate and on May 23, 1996, the Prince George County Circuit Court ordered Mr. Stokes to submit the estate's real property to be sold by private sale or public auction.

4. On July 26, 1996, the court entered an order approving two private bids (from individuals who were not relatives of the Wright family) to purchase the estate's real property.

5. During July or August, 1996, Dorothy Wright, one of the heirs of Mr. Wright's estate, retained Mr. Bland to file a motion to set aside the sale of the estate's real property.

6. On August 8, 1996, Mr. Bland filed an Upset Bid in Prince George County Circuit Court, stating to the court that he represented heirs, Dorothy Wright, Shirley McWilliams and Joyce Wright, and on August 12, 1996, he filed a Motion to Set Aside Decree Confirming Private Bids on behalf of these three defendants. On August 22, 1996, Mr. Bland filed a Brief on behalf of said three defendants and on August 30, 1996, he filed a Brief Reply to Supplemental Report on behalf of said three defendants.

7. However, Mr. Bland's pleadings contained incorrect statements as to whom he was representing. At least one of the heirs, Shirley McWilliams, had not retained Mr. Bland.

8. Mr. Bland's Motion to Set Aside Decree confirming Private Bids was ultimately unsuccessful and on September 11, 1996, he filed a notice of appeal to the Supreme Court of Virginia, in which he stated that he was representing heirs, Jean Massenburg, Dorothy Wright, Shirley McWilliams and Joyce Wright. However, Mr. Bland's notice of appeal contained an incorrect statement as to whom he was representing. Some of the heirs, including but not limited to Jean Massenburg and Shirley McWilliams, had not, in fact, retained Mr. Bland.

9. Later on, during the appellate proceedings, Mr. Bland filed pleadings in which he stated that he was representing heirs, Jean Massenburg, Dorothy Wright, Flora Cooper, Gladys Hill, Barbara Raines, Joyce Wright, Ernestine Robinson, Ernest Wright, James E. Wright, Jr., and Shirley McWilliams. However, these pleadings by Mr. Bland contained incorrect statements as to whom he was representing. Some of the heirs, including but not limited to Jean Massenburg, Flora Cooper, Gladys Hill, Ernestine Robinson and Shirley McWilliams, had not in fact retained Mr. Bland. Moreover, all of the heirs other than the ones listed in Mr. Bland's notice of appeal were thereafter time-

barred by the Supreme Court from appealing the circuit court's final order and could not have been represented by him, anyway.

10. On February 28, 1997, the appeal filed by Mr. Bland was dismissed.

11. On March 14, 1997, Mr. Stokes wrote a letter to Mr. Bland, enclosing eight checks which were each made out in the amount of \$2,578.31 and which constituted the proceeds from the sale of the estate's real property for eight of Mr. Wright's heirs. In his March 14, 1997 letter, Mr. Stokes stated that he was enclosing checks for Mr. Bland's clients, Dorothy Wright, Shirley McWilliams, Jean Massenburg and Joyce Wright. Mr. Stokes also stated that he was enclosing checks for heirs, Gladys Hill, Flora Cooper, Gloria Wright and Ernestine Robinson, "in the hopes that your clients will have their current addresses and you will be kind enough to forward them to the payees"

12. After Mr. Bland received the eight checks, he contacted his client, Dorothy Wright, and told her that he had received said checks.

13. Dorothy Wright instructed Mr. Bland to send her the checks. After Mr. Bland did so, Dorothy Wright held onto the checks and did not distribute them.

14. On March 26, 1997, Mr. Bland filed an Objection to Decree Approving Supplemental Scheme of Distribution, in which he incorrectly represented that he was counsel for the defendants (heirs).

15. When the other heirs learned that Mr. Bland had sent Dorothy Wright checks, which she would not distribute to them, many of them became upset that they had not received their checks. Various heirs complained to Mr. Bland, Mr. Stokes and Dorothy Wright about the fact that they had not received their checks.

16. Mr. Stokes wrote and called Mr. Bland repeatedly, in an effort to have Mr. Bland either ensure that the checks were distributed to the proper payees or to return said checks to the court.

17. On May 14, 1997, Mr. Bland wrote Dorothy Wright, requesting that she release the check made out to the Complainant, Flora Cooper.

18. Months later, Dorothy Wright released all of the checks to her sister, Gladys Hill; however, Flora Cooper never received her check. Mr. Stokes ultimately had to arrange for the Clerk of the Circuit Court to stop payment on Mrs. Cooper's check and issue her a new check.

II. NATURE OF MISCONDUCT

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

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

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

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, it is the decision of the Subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate to the disposition of a Public Reprimand with Terms of this compliant. The terms and conditions shall be met within the time set forth below from the date of the mailing of this disposition.

1. Within thirty (30) days, the Respondent shall send a letter of apology to each of the heirs of James E. Wright, Sr.'s estate, with the exception of Dorothy Wright. In the Respondent's letters to the heirs, he shall apologize for incorrectly stating that he was their counsel in the pleadings he filed with the Prince George County Circuit Court and the Supreme Court of Virginia. Within thirty (30) days, the Respondent shall provide Assistant Bar Counsel, Dorothy M. Pater, with documentary evidence that he had complied with this term (i.e., the Respondent shall submit copies of each of the letters he has sent the heirs).

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by the aforesaid dates, the Third, Section I District Committee shall certify this matter to the Disciplinary Board.

THIRD, SECTION I DISTRICT SUBCOMMITTEE OF THE VIRGINIA STATE BAR

By Russell O. Slayton, Jr., Subcommittee Chair
Certified May 11, 1999



BEFORE THE THIRD, SECTION I DISTRICT SUBCOMMITTEE OF THE VIRGINIA STATE BAR

In the Matter of
PAUL CORNELIOUS BLAND
VSB Docket No. 98-031-2677

SUBCOMMITTEE DETERMINATION (PUBLIC REPRIMAND WITH TERMS)

On May 7, 1999, a meeting in this matter was held before a duly convened Third, Section I District Subcom-

mittee consisting of John C. Gould, Esquire, Thomas F. Lee, Lay Person, and Russell O. Slayton, Jr., presiding.

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

I. FINDINGS OF FACT

1. At all times relevant hereto, the Respondent, Paul Cornelious Bland (hereinafter "Mr. Bland"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On February 9, 1996, Mr. Bland began representing the Complainant, John H. Hayes (hereinafter "Mr. Hayes"), with regard to bringing a partition suit, which would enable Mr. Hayes to purchase his former wife's undivided interest in real property that Mr. Hayes and his ex-wife owned as tenants in common.
3. In March or May, 1996, Mr. Hayes paid Mr. Bland a flat fee of \$300 to handle his partition suit. Mr. Bland failed to deposit said flat fee into his trust account and also failed to maintain a trust account subsidiary ledger for Mr. Hayes.
4. On April 8, 1996, Mr. Bland filed a bill of complaint in the Chesterfield County Circuit Court on behalf of Mr. Hayes. Subsequently, the Petersburg Sheriff's Office attempted to serve the defendant, Bernadette V. Hayes (hereinafter "Ms. Hayes"), on April 18, 1996, but was unsuccessful because Ms. Hayes could not be found.
5. Thereafter, Mr. Bland neglected to pursue Mr. Hayes' partition suit in a prompt or diligent manner. Mr. Bland allowed approximately five months to pass after his unsuccessful attempt to serve the defendant before he submitted an affidavit and proposed order of publication to the Chesterfield County Circuit Court on September 17, 1996.
6. The court notified Mr. Bland on September 24, 1996, that he needed to designate the newspaper in which the order of publication would be published, and Mr. Bland let approximately four more months elapse before he submitted a revised order of publication to the court, designating the Progress Index as the paper of publication.
7. Thereafter, Mr. Bland failed to check on the status of his revised order of publication until after Mr. Hayes had filed his first complaint against Mr. Bland on April 23, 1997. When Mr. Bland contacted the court on May

- 6, 1997, he learned that his revised order had not been entered because it needed to be double spaced. Mr. Bland then submitted to the court a second revised order of publication, which was double spaced.
8. On May 16, 1997, the court entered Mr. Bland's second revised order of publication. Subsequently, Mr. Bland did not take any steps to have the legal notice published by the Progress Index. On August 2, 1997, Mr. Bland sent the court an amended affidavit and order of publication because the prior order of publication had contained a deadline of July 25, 1997 for the defendant to appear (and the July 25, 1997 deadline had expired without publication of the legal notice).
 9. On August 18, 1997, the court entered Mr. Bland's amended order of publication, which contained a new deadline of October 18, 1997 for the defendant to appear. Again, Mr. Bland took no steps to have the legal notice published by the Progress Index prior to the expiration of the October 18, 1997 deadline.
 10. On April 13, 1998, the court notified Mr. Bland that a pre-trial conference had been scheduled for May 6, 1998, since there had been no activity on the court's docket since August 20, 1997 (which was the date on which the court had posted Mr. Bland's amended order of publication).
 11. On May 4, 1998, Mr. Bland got the court to enter yet another order of publication, with a new deadline of July 6, 1998 for the defendant to appear.
 12. On May 5, 1998, Mr. Bland finally visited the Progress Index and obtained a quote for the cost of publication. On May 7, 1998, May 14, 1998, May 21, 1998 and May 28, 1998, the Progress Index published the legal notice regarding Mr. Hayes' partition suit.
 13. Mr. Hayes contacted Mr. Bland in May, 1998 and advised that he had located his ex-wife in South Carolina. Mr. Hayes provided Mr. Bland with a telephone number and post office address for his former wife. Mr. Bland contacted Ms. Hayes and she agreed to sign a deed of assumption.
 14. Mr. Bland prepared a deed of assumption and sent it to Ms. Hayes on June 16, 1998, asking her to sign the deed of assumption. Ms. Hayes failed to respond to Mr. Bland's correspondence and Mr. Bland filed a decree of reference on September 16, 1998.
 15. Mr. Bland's decree of reference was entered by the court on September 24, 1998. On September 26, 1998, Mr. Bland met with Mr. Hayes and provided him

with a copy of the decree of reference. Mr. Bland then sent Mr. Hayes a letter dated October 2, 1998, advising him of the status of his case. Mr. Bland has since failed to take any further steps to move Mr. Hayes' partition suit along. On April 2, 1999, the designated Commissioner in Chancery, Howard S. Marley, sent Mr. Bland a letter, requesting Mr. Bland to take action in the matter.

II. NATURE OF MISCONDUCT

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

DR 6-101. (B) * * *
 DR 9-102. (A) (1) and (2) * * *
 DR 9-103. (A) (3) * * *

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, it is the decision of the Subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate to the disposition of a Public Reprimand with Terms of this complaint. The terms and conditions shall be met within the time set forth below from the date of the mailing of this disposition.

1. Within thirty (30) days, the Respondent shall file a motion to withdraw as John H. Hayes' counsel in Mr. Hayes' partition suit. Within thirty (30) days, the Respondent shall provide Assistant Bar Counsel, Dorothy M. Pater, with a copy of the motion to withdraw that he has filed.
2. Within thirty (30) days, the Respondent shall give Mr. Hayes a \$300 refund. Within thirty (30) days, the Respondent shall provide Assistant Bar Counsel, Dorothy M. Pater, with documentary evidence that he has sent Mr. Hayes a \$300 refund.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by the aforesaid dates, the Third, Section I District Subcommittee shall certify this matter to the Disciplinary Board.

THIRD, SECTION I DISTRICT SUBCOMMITTEE
 OF THE VIRGINIA STATE BAR
 By Russell O. Slayton, Jr., Subcommittee Chair
 Certified May 11, 1999



disciplinary actions

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

In the Matter of
DONALD EDWARD EARLS
VSB Docket No. 97-102-2079

DISTRICT COMMITTEE DETERMINATION (PUBLIC REPRIMAND)

On March 18, 1999, a hearing in this matter was held before a duly convened Tenth, Section II District committee panel consisting of Thomas L. Pruitt, James M. Shull, Nancy Dickenson, Hugh P. Cline, Jr., and Stephen M. Quillen.

The Respondent, Donald Edward Earls, appeared in person and with his counsel, Terry Kilgore. Assistant Bar Counsel Richard E. Slaney appeared as counsel for the Virginia State Bar.

Following the Bar evidence, and upon the Respondent's Motion to Strike, the panel dismissed an alleged violation of Disciplinary Rule 6-101(C). At the conclusion of all the evidence, the panel deliberated and dismissed an alleged violation of Disciplinary Rule 1-102(A)(4), and further found by clear and convincing evidence that Disciplinary Rules 6-101(B) and 7-102(A)(2) were violated by the Respondent in this case. The panel then heard additional evidence at the penalty stage of the proceedings, including the prior disciplinary record of the Respondent, deliberated and decided to impose a Public Reprimand on the Respondent.

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

I. FINDINGS OF FACT

1. At all times material to this case, the Respondent, Donald Edward Earls (Earls), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. The Complainant, Curtis Blankenship, Jr. (Blankenship), retained Earls in 1989 or 1990 to research and prosecute a claim to land which had been mined (the "land"). Blankenship gave Earls the deeds under which he claimed, which indicated ownership of only a fractional interest in the land, and Earls indicated he would research the matter and, if advisable, would file suit.

3. Notwithstanding the language of the deeds underlying the claim, Earls filed suit in Buchanan County Circuit

Court (the "Court") claiming complete ownership of the land on behalf of Blankenship.

4. The Court appointed a Special Commissioner to hear the matter, and on November 11, 1995, the Special Commissioner issued a Report finding Blankenship had no ownership interest in the land. After reviewing the Report, Blankenship asked Earls to submit additional evidence to the Court. Earls failed to take steps to submit the additional evidence requested by Blankenship, and the Court confirmed and adopted the Special Commissioner's Report in a final order dated October 15, 1996.

5. Earls agreed to appeal the Court's order, and mailed a Notice of Appeal to the Court Clerk's Office dated November 14, 1996; however, the Clerk's Office did not receive the Notice of Appeal until November 18, 1996.

6. The Court of Appeals of Virginia dismissed the appeal by order dated December 11, 1996, specifically stating the dismissal was due to the failure to timely file the Notice of Appeal with the Court.

II. NATURE OF MISCONDUCT

Wherefore, the Virginia State Bar, by its Tenth, Section II District Committee finds that such conduct by the Respondent, Donald Edward Earls, as set forth above, constitutes misconduct and violation of the following Disciplinary Rules of the revised Virginia Code of Professional Responsibility:

DR 6-101. (B) * * *
DR 7-102. (A)(2) * * *

III. IMPOSITION OF A PUBLIC REPRIMAND

Accordingly, it is the decision of the Tenth, Section II District Committee to impose a Public Reprimand on the Respondent, Donald Edward Earls.

* * *

TENTH, SECTION II DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By Thomas L. Pruitt, Panel Chair
Certified April 8, 1999



Disability Action

FOR THE VIRGINIA STATE BAR DISCIPLINARY BOARD

In the Matter of
JOSEPH MANUEL CARDONA
VSB Docket No. 98-000-0719

ORDER OF DISABILITY SUSPENSION

This cause came to be heard on March 30, 1999, upon a petition of the Virginia State Bar for an order pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13(F) to suspend the license of Joseph Manuel Cardona to practice law in the Commonwealth of Virginia indefinitely based upon a disability, before a duly convened panel of the Disciplinary Board consisting of Richard J. Colten, John A. Dezio, Frank B. Miller, III, Werner H. Quasebarth, lay member, and Virginia W. Powell, Chair, presiding. The Virginia State Bar was represented by James W. Carroll, Jr., Assistant Bar Counsel; and the Respondent, Joseph Manuel Cardona, was present in person, with Gordon P. Peyton, Jr., Guardian ad Litem for the Respondent, who was appointed as Guardian ad Litem by Order of the Virginia State Bar Disciplinary Board dated March 26, 1998; and upon the evidence and argument of counsel for the Virginia State Bar and of the Guardian ad Litem, and

It appearing to the Board that upon the evidence presented, specifically reports of Stuart R. Stark, M.D., dated August 5, 1998, and December 14, 1998, that Respondent is not competent to practice law and suffers from a disability as defined in Section 37.1-1 of the Code of Virginia, 1950, as amended; and

It further appearing that pursuant to Paragraph 13F (2) of Part Six, Section IV of said Rules, the Board has the power to suspend the license of the respondent for an indefinite period if the Respondent is under a disability; and

It further appearing to the Board that since the Respondent is under a disability as defined by Section 37.1-1 of the Code of Virginia, 1950, as amended, the Rules of the Supreme Court permit Respondent to petition for reinstatement and that the same is just and proper, it is hereby Ordered that the license to practice law in the Commonwealth of Virginia of Joseph Manuel Cardona is suspended effective upon the entry of this order under the provisions of the rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13F(2), and

It is further Ordered that should Respondent petition for reinstatement of his license, this Board shall be convened at the earliest possible date for the purpose of holding a hearing on such petition, and Respondent is advised as provided in the Rules of the Supreme Court that when

his disability is removed, any pending discipline matters must be resolved prior to the holding of a hearing on such petition, and

It is further ORDERED pursuant to the provisions of Part Six, Section IV, Paragraph 13K(1) of the Rules of the Supreme Court of Virginia, that the Respondent shall forthwith give notice by Certified Mail, Return Receipt Requested, of his Suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Attorney shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. The Attorney shall furnish proof to the bar within sixty (60) days of the effective date of the Suspension order that such notices have been timely given and such arrangement for the disposition of matters made. Issues concerning the adequacy of the notice and arrangements required herein shall be determined by the Disciplinary Board, which may impose a sanction of suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that Joseph Manuel Cardona shall furnish true copies of all of the notice letters sent to all persons notified of the suspension, with the original return receipts for said notice letters, to the Clerk of the Disciplinary System, on or before July 30, 1999.

It is further ORDERED that the Clerk of the Disciplinary System send an attested true copy of this Order to the Respondent, Joseph Manuel Cardona, by Certified Mail, Return Receipt Requested, at his address of record with the Virginia State Bar, Apartment 203, 2260 Pimmit Run Lane, Falls Church, Virginia 22043, and to Gordon P. Peyton, Jr., Guardian ad Litem, P.O. Box 25456, Alexandria, Virginia 22313-5456, and to James W. Carroll, Jr., Assistant Bar Counsel, Virginia State Bar, 100 N. Pitt Street, Suite 310, Alexandria, Virginia 22314.

* * *

ENTERED this 31st day of May, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Virginia W. Powell, Chair

Administrative Suspension

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
MICHELLE SUSAN OLIVIERI
VSB Docket No. 95-021-1032

ORDER OF ADMINISTRATIVE SUSPENSION

It appearing to the Board that Michelle Susan Olivieri received a Public Reprimand; and

It further appearing that costs of \$502.46 were assessed in this proceeding and that an attested copy of the Notification of Assessment of Costs was mailed to Michelle Susan Olivieri on March 9, 1999, by certified mail, return receipt requested, and was returned by the Postal Service marked "Attempted Unknown" at her address of record on file with the Virginia State Bar; and

It further appearing that Michelle Susan Olivieri has not reimbursed the Virginia State Bar for the costs assessed, and that thirty (30) days from the date of assessment has passed and interest at the judgment rate has commenced on the assessed costs;

It is ORDERED, pursuant to Part Six, §IV: ¶13(K)(10) of the Rules of the Supreme Court of Virginia that the license of Michelle Susan Olivieri shall be suspended administratively, effective immediately until further order of the Disciplinary Board.

It is further ORDERED pursuant to the provisions of Part Six, Section IV, Paragraph 13(K)(1) of the Rules of the Supreme Court of Virginia, that the Respondent shall forthwith give notice by certified mail, return receipt requested, of the Suspension of her license to practice law

in the Commonwealth of Virginia, to all clients for whom she is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Attorney shall also make appropriate arrangements for the disposition of matters then in her care in conformity with the wishes of her client. The Attorney shall give such notice within fourteen (14) days of the effective date of the Suspension order; and make such arrangements as are required herein within forty-five (45) days of the effective date of the Suspension order. The Attorney shall furnish proof to the bar within sixty (60) days of the effective date of the Suspension order that such notices have been timely given and such arrangement for the disposition of matters made. Issues concerning the adequacy of the notice and arrangements required herein shall be determined by the Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that Michelle Susan Olivieri shall furnish true copies of all of the notice letters sent to all persons notified of the suspension, with the original return receipts for said notice letters, to the Clerk of the Disciplinary System, on or before June 21, 1999.

It is further ORDERED that an attested copy of this Order be mailed to the Respondent by certified mail, return receipt requested, to her Virginia State Bar address of record, #2018, 609 Treemont Court, Virginia Beach, Virginia 23454, and to Richard C. Vorhis, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 23rd day of April, 1999
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A. Eason, Chair