

**VIRGINIA:**

**BEFORE THE EIGHTH DISTRICT COMMITTEE  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF  
MARC JAMES SMALL**

**VSB Docket No: 06-080-1682**

**DISTRICT COMMITTEE DETERMINATION  
(PUBLIC REPRIMAND)**

On January 19, 2006, a show cause hearing was held before a duly convened district committee panel consisting of Joshua O. Elrod, Esquire, Tracy A. Giles Esquire, Robin J. Mayer, Esquire, J. Scott Sexton, Esquire, Wilson F. Vellines, Jr., Esquire, Anderson W. Douthat, IV, Lay Member, Sidney S. Evans, Lay Member, Don S. Reid, Lay Member, and Paul M. Black, Esquire, Chair presiding. The Respondent, Marc James Small, appeared in person *pro se*. Kathryn R. Montgomery appeared as counsel for the Virginia State Bar.

The Respondent was required to appear and show cause why the district committee should not issue a Public Reprimand for his alleged failure to comply with a term imposed in connection with a Private Admonition with Terms issued on August 31, 2005 pursuant to an agreed disposition in VSB docket number 04-080-2151. In that case, Respondent conceded (i) that he failed to deposit an advanced legal fee into his trust account, (ii) that in response to the complainant's claim, he frequently smelled of alcohol, (iii) that in the past, he has had counseling for addiction issues, and (iv) that in March 2004, while appearing before the Botetourt General District Court, he complied with the judge's request that he submit to an alcohol detection test, the result of which was positive. The term in 04-080-2151 required the following: 1) that Respondent submit to

an evaluation recommended and approved by the Lawyers Helping Lawyers program to determine if he is suffering from a substance abuse problem, and 2) that Respondent or Lawyers Helping Lawyers provide confirmation of such evaluation to Marian L. Beckett, Assistant Bar Counsel, or by October 5, 2005. The agreed disposition also provided for a Public Reprimand if the Respondent did not comply with the above terms.

Based on the evidence the Respondent and the bar presented at the show cause hearing, and for the reasons stated on the record, the district committee unanimously finds that the Respondent did not prove compliance by clear and convincing evidence as required by Part 6, § VI, ¶ 13.H. 2. p(1) of the Rules of the Supreme Court of Virginia, and the district committee unanimously finds that Respondent failed to comply with the term associated with the Private Admonition issued in VSB 04-080-2151.

WHEREFORE, pursuant to Part Six, Section IV, Paragraph 13.H.2.p(1) of the Rules of the Supreme Court of Virginia, the Eighth District Committee of the Virginia State Bar hereby serves upon Respondent Marc James Small a Public Reprimand, the alternate sanction provided in the Private Admonition with Terms issued in VSB Docket No. 04-080-2151.

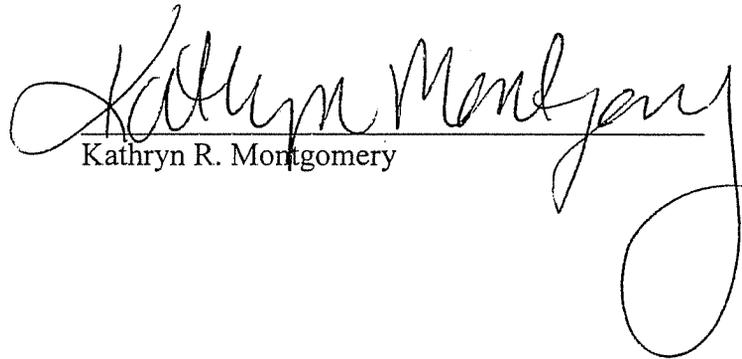
The Clerk of the Disciplinary System shall assess the appropriate costs.

EIGHTH DISTRICT COMMITTEE OF THE  
VIRGINIA STATE BAR

By:   
Paul M. Black, Esquire  
Vice-Chair and Presiding Officer  
Eighth District Committee

**CERTIFICATE OF SERVICE**

I hereby certify that on Jan. 27, 2006 a true and complete copy of the foregoing District Committee Determination (Public Reprimand) was mailed by certified mail, return receipt requested, to Respondent Marc James Small at 713 First Street, SW Roanoke, VA 24016, his last address of record with the Virginia State Bar.

  
Kathryn R. Montgomery