

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

CONSENT TO REVOCATION OF LICENSE TO PRACTICE LAW

TO THE HONORABLE MEMBERS OF THE VIRGINIA STATE BAR DISCIPLINARY BOARD:

Your Affiant, STUART WOODWARD ATKINSON, first being duly sworn, upon his oath does respectfully represent unto the Disciplinary Board the following:

1. That he was licensed by the Board of Law Examiners on June 9, 1962 to practice law in the courts of the Commonwealth, and that he did on June 9, 1962 qualify before the Supreme Court of Virginia.

2. That this consent is freely and voluntarily tendered by him pursuant to Part 6, Section IV, Paragraph 13(L) of the Rules of the Supreme Court of Virginia, that he is not being subjected to coercion or duress, and that he is fully aware of the implications of consenting to Revocation.

3. That he is aware that there are proceedings currently pending involving allegations of Misconduct (VSB Docket Numbers 02-010-0560, 02-010-0658, 03-010-0083, 03-010-0366, and 03-010-1876), the nature of which are that he failed to timely attend to his fiduciary obligations in three estates, failed to perfect a criminal appeal, and failed to preserve a client's claim to insurance proceeds, as set forth in the attached Subcommittee Determinations.

4. That the material facts upon which the allegations of Misconduct are predicated are true; and,

5. That he submits this consent to Revocation because he knows that if disciplinary Proceedings based on the alleged Misconduct were brought or prosecuted to a conclusion, he could not successfully defend them.

In accordance with Paragraph 13(L)(2), the admissions offered in this affidavit consenting to Revocation shall not be deemed an admission in any proceeding except one relating to the status of this attorney as a member of a bar.

WHEREFORE, your Affiant respectfully requests that he be allowed to consent to the Revocation of his license to practice law before this Honorable Board and before all other courts of the Commonwealth of Virginia; that his name be stricken from the roles of attorneys qualified to practice law in the Commonwealth of Virginia; and that such orders and decrees as may be necessary or required in this regard may be entered.

GIVEN under her hand this 19th day of APRIL, 2004.

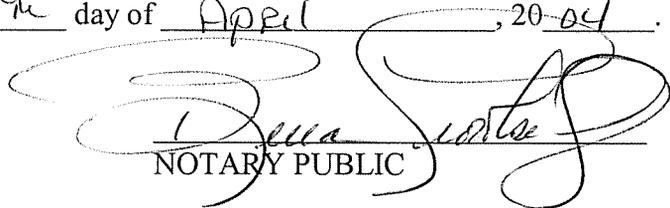

STUART WOODWARD ATKINSON
Affiant

STATE OF VIRGINIA

City/County of Newport News to wit:

I, Bella M. Trowbridge, a Notary Public in and for the city/county and state aforesaid, whose notarial commission expires on the 31st day of October, 2006, do hereby certify that STUART WOODWARD ATKINSON, personally known to me, appeared before me on this 19th day of April, 2004, and was by me duly sworn and thereupon executed in my presence and acknowledged to me the truth and voluntariness of the foregoing Affidavit and Oath.

GIVEN under my hand this 19th day of April, 2004.


NOTARY PUBLIC

My commission expires the 31st day of October, 2006.

VIRGINIA:

**BEFORE THE FIRST DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
STUART WOODWARD ATKINSON**

**VSB DOCKET NO. 03-010-1876
Complainant: VSB/Commissioner of
Accounts (Alvin P. Anderson, Esq.)**

**SUBCOMMITTEE DETERMINATION
(CERTIFICATION)**

On April 4, 2003, a meeting in these matters was held before a duly convened subcommittee of the First District Committee consisting of Thomas L. Hunter, Esquire, N. Douglas Burgoyne, Lay Member, and John W. Jelich, III, Esquire, Chair, presiding.

Pursuant to Part Six, Section IV, Paragraph 13.G.1 (b) of the Rules of the Supreme Court, the First District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Certification:

I. ALLEGATIONS OF FACT

1. During all times relevant hereto, the Respondent, Stuart Woodward Atkinson (hereinafter Respondent or Mr. Atkinson) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On March 20, 1996, Mr. Atkinson and John Wallace Long qualified as co-executors of the Estate of Martha Jane Long before the Circuit Court for the City of Williamsburg and James City County.
3. Mr. Atkinson submitted the first four annual accountings, and they were approved.
4. On November 19, 2001, Mr. Atkinson submitted the annual accounting for the period June 14, 2000 to June 14, 2001.

5. The Commissioner of Accounts did not approve the accounting, and by letter, dated April 25, 2002, detailed a series of issues which “must be addressed” before the Commissioner could approve the accounting. He closed the letter by saying he had calendared the file to June 25, 2002, and that:

“In the absence of all items enumerated herein being satisfactorily addressed by the specified date, I will have no choice but to issue the summons provided by statute and thereafter as appropriate report the matter to the Circuit Court which will require your personal appearance and explanation before the Judge.”

6. Mr. Atkinson did not submit the required information, and on July 2, 2002, the Commissioner of Accounts sent him a reminder.

7. Having not received the information from Mr. Atkinson, on July 31, 2002, the Commissioner of Accounts issued a summons to Mr. Atkinson requiring him to exhibit the requested items no later than thirty days after service of the summons.

8. On August 8, 2002, the summons was personally served on a member of Mr. Atkinson’s staff; however, he did not comply.

9. Accordingly, on December 18, 2002, the Commissioner of Accounts made a report to the circuit court. The circuit court issued an Order Summoning Executor for Failure to Obey Summons, requiring him to appear before the circuit court on January 13, 2003.

10. About this time, Mr. Atkinson had a series of conversations with Co-Executor John Long, a resident of Missouri. According to Mr. Long, Mr. Atkinson told him that he had “just” received a letter requiring that he produce the requested information, and that he had a “meeting” in the circuit court on January 13, 2003.

11. Mr. Long explained further that it was not until he spoke with the Commissioner of Accounts’ staff that he learned for the first time that the original request for the information was in April 2002, and that the “meeting” before the circuit court was a show-cause hearing.

12. On January 7 and January 12, 2003, Mr. Long wrote to the Commissioner of Accounts and tried to answer some of the questions previously posed by the Commissioner to Mr. Atkinson.

13. On January 13, 2003, the matter came before the court. On January 16, 2003, the court entered an order holding that Mr. Atkinson had failed to address all of the items set forth in the Commissioner of Accounts’ letter, dated April 25, 2002, and further ordered Mr. Atkinson to address all of the items on or before February 13, 2003. The court also imposed a penalty of \$250.

14. By letters, dated January 27 and February 12, 2003, Mr. Atkinson tried to explain his efforts to comply with the previous requests. He also explained that there were some internal problems in his office.

15. By February 13, 2003, Mr. Atkinson completed all of the requirements except for one concerning mineral rights. He submitted an accounting which, in the Commissioner's words, "Looks good with a few problems." Eventually, Mr. Atkinson submitted an accounting that was approved, and the estate was restored to good standing.

16. Mr. Atkinson explained that it was not until he received the summons that he learned about the April 25, 2002 letter, although he accepted responsibility for the conduct of his staff. He explained further that he retained counsel in Wyoming to settle the mineral rights issue.

17. Mr. Atkinson also said that he was reducing his practice, not accepting any more criminal cases, and focusing on his real estate practice and title company.

18. Mr. Atkinson did not respond to the bar complaint.

II. DISCIPLINARY RULE VIOLATIONS

The following Disciplinary Rules area alleged to have been violated:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application, in connection with any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

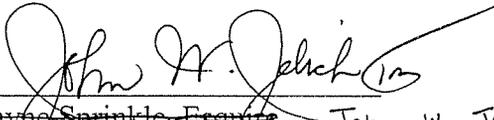
- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

III. CERTIFICATION

Accordingly, it is the decision of the Subcommittee to certify the charges of misconduct to the Virginia State Bar Disciplinary Board.

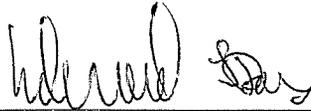
FIRST DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

By


~~J. Wayne Sprinkle, Esquire~~ John W. Jelich, III, Esq.
Chair / Subcommittee

CERTIFICATE OF SERVICE

I certify that I have this 10th day of December, 2003 caused to be mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a true and correct copy of the foregoing Subcommittee Determination (Certification) to Stuart Woodward Atkinson, Esquire, Respondent, at Suite 155, 714 J. Clyde Morris Boulevard, Newport News, Virginia 23601, his address of record with the Virginia State Bar, and to his counsel, Raighne C. Delaney, Esquire, at Boone, Kinney & Korman P.C., Suite 100, 2000 North 14th Street, Arlington, Virginia 22201, his address of record with the Virginia State Bar.



Edward L. Davis, Assistant Bar Counsel

VIRGINIA:

BEFORE THE FIRST DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF STUART WOODWARD ATKINSON

VSB DOCKET NO. 02-010-0560 *Complainant: Ms. Francis S. Baker*
 02-010-0658 *Complainant: Mr. Keith L. Sanders, #0290867*
 03-010-0083 *Complainant: VSB/Commissioner of Accounts*
 03-010-0366 *Complainant: VSB/Commissioner of Accounts*

SUBCOMMITTEE DETERMINATION
(CERTIFICATION)

On June 7, 2002, a meeting in these matters (VSB Docket Numbers 01-010-0560 and 01-010-0658) was held before a duly convened subcommittee of the First District Committee consisting of Damian P. Dwyer, Esquire, Durwood Curling, Lay Member, and J. Wayne Sprinkle, Esquire, Chair, presiding.

On February 7, 2003, the same subcommittee panel considered VSB Docket Numbers 03-010-0083 and 03-010-0366.

Pursuant to Part Six, Section IV, Paragraph 13.G.1 (b) of the Rules of the Supreme Court, the First District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Certification:

I. ALLEGATIONS OF FACT

1. During all times relevant hereto, the Respondent, Stuart Woodward Atkinson (hereinafter Respondent or Mr. Atkinson) was an attorney licensed to practice law in the Commonwealth of Virginia.

02-010-0560 Complainant: Ms. Francis S. Baker

2. On October 22, 1998, Frances S. Baker was injured in a traffic accident when a vehicle driven by John O'Neill collided with the rear of her vehicle. Her injuries included fractures to her skull and ribs.
3. On November 3, 1998, shortly after her release from the hospital, Ms Baker hired Mr. Atkinson to represent her in the accident, and executed a written engagement agreement.
4. Mr. Atkinson commenced settlement negotiations with the liable driver's insurance carrier, Allstate. The policy limits were \$25,000.
5. At the time, Ms. Baker had Medical Payments coverage and Underinsured Motor Vehicle Bodily Injury coverage of \$50,000 to \$100,000 in her own automobile insurance policy, provided by State Farm Insurance.
6. Ms. Baker furnished Mr. Atkinson with a copy of her insurance policy title page, and Mr. Atkinson confirmed receipt of it by letter, dated December 16, 1998.
7. On an unknown date, Mr. Atkinson advised Ms. Baker that Allstate offered to settle the matter for its policy limits of \$25,000.
8. Knowing that there was a Medicare lien on her case, and thinking that she should receive more money, Ms. Baker asked Mr. Atkinson about suing Mr. O'Neill, the liable driver. Mr. Atkinson responded that \$25,000 was the best that they could do.
9. On January 7, 2000, Allstate issued its check in the amount of \$25,000, payable to Ms. Baker and Mr. Atkinson, her attorney.
10. Mr. Atkinson presented the check to Ms. Baker, who endorsed it, and he disbursed \$14,291.47 to her on March 27, 2000.
11. Mr. Atkinson did not provide his client with a written statement showing the outcome of the matter, the remittance to his client, or the method of its determination as required by Rule 1.5(c) of the Rules of Professional Conduct.
12. On an unknown date, but shortly after Mr. Atkinson settled the case, Ms. Baker and her former son-in-law, Ricky Hazelwood, visited Mr. Atkinson and asked him about making a claim against the Underinsured Motor Vehicle Bodily Injury coverage in her insurance policy.
13. Mr. Atkinson told her that he would "check on it." Over the next two years, Ms. Baker periodically asked Mr. Atkinson about the claim on her insurance policy, and Mr. Atkinson would say words to the effect that he was still investigating the matter.

14. On an unknown date, Mr. Atkinson filed a claim with State Farm, who informed him that the two-year statute of limitations had run, and denied the claim accordingly.

15. Thereafter, Ms. Baker asked for her file, and Mr. Atkinson informed her that he had missed the statute of limitations on the insurance claim. He offered to indemnify her with monthly payments of \$200, and issued two checks to her in that amount.

16. Ms. Baker hired another attorney to pursue a malpractice claim against Mr. Atkinson.

II. DISCIPLINARY RULE VIOLATIONS

(02-010-0560, Frances Baker Complaint)

The following Disciplinary Rules are alleged to have been violated:

Prior to January 1, 2000:

DR 6-101. Competence and Promptness.

(A) A lawyer shall undertake representation only in matters in which:

(1) The lawyer can act with competence and demonstrate the specific legal knowledge, skill, efficiency, and thoroughness in preparation employed in acceptable practice by lawyers undertaking similar matters, or

(2) The lawyer has associated with another lawyer who is competent in those matters.

(B) A lawyer shall attend promptly to matters undertaken for a client until completed or until the lawyer has properly and completely withdrawn from representing the client.

January 1, 2000, and later:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 1.4 Communication

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

RULE 1.4 Communication

- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

RULE 1.5 Fees

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall state in writing the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

I. ALLEGATIONS OF FACT (continued)

02-010-0658

Complainant: Keith Sanders, #290867

16. On October 17, 2000, the Circuit Court for York County sentenced Keith L. Sanders to nine and one-half years in prison following his convictions of possession of cocaine with intent to distribute and possession of a controlled substance. Mr. Atkinson was his retained counsel.

17. Mr. Sanders hired Mr. Atkinson to pursue the appeal. On November 16, 2000, Mr. Atkinson filed a notice of appeal on behalf of Mr. Sanders, but did not remit the required filing fee.

18. Accordingly, on February 1, 2001, the Court of Appeals dismissed the appeal for nonpayment of the filing fee, in accordance with Virginia Code Section 17.1-418.1 and Rule 5A:6 (c) of the Rules of the Supreme Court of Virginia.

19. Mr. Atkinson did not inform Mr. Sanders about the dismissal of the appeal.

20. By letters, dated May 9, 2001, May 29, 2001, June 20, 2001 and August 1, 2001, Mr. Sanders asked Mr. Atkinson to provide his file records so that he could petition for a writ of habeas corpus. Mr. Atkinson never responded.

21. Receiving no response to his initial letters, Mr. Sanders wrote to the Court of Appeals directly and learned for the first time that the appeal was dismissed, by letter dated June 15, 2001.

22. Receiving no response from Mr. Atkinson, Mr. Sanders complained to the bar on August 4, 2001.

23. Mr. Atkinson responded to the complaint, saying that he had been suffering from “burn out,” and that he had not been taking care of his duties properly. He explained further that he had hired a psychologist to help him with his memory and motivation to accomplish tasks in a timely manner. He also made an appointment with Riverside Hospital to be tested for Alzheimer’s, since his father had it, contacted Lawyers Helping Lawyers for suggestions, and had his name removed from the court-appointed list.

II. DISCIPLINARY RULE VIOLATIONS (continued)

(02-010-0658, Keith Sanders Complaint)

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 1.4 Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

I. ALLEGATIONS OF FACT (continued)

03-010-0083

Complainant: VSB/Commissioner of Accounts (Alvin P. Anderson)

24. On November 26, 1996, Mr. Atkinson qualified as Resident Co-Executor under the will of Leone B. Threlkeld in the Circuit Court for the City of Williamsburg and James City County.

25. On January 23, 2002, Alvin P. Anderson, Esq., the Commissioner of Accounts, issued a summons to Mr. Atkinson for his failure to respond to a deficiency letter in connection with the required accounting for the period commencing April 1, 1999 to March 31, 2001.

26. That summons was served on Mr. Atkinson by personal service on January 30, 2002.

27. Although Mr. Atkinson filed a partial response to that summons, he failed to fully respond, and the thirty-day time period to comply with the summons expired.

28. Mr. Atkinson then failed to respond to a follow-up letter from the Commissioner of Accounts, dated March 21, 2002.

29. The Commissioner of Accounts sent the same letter again on April 16, 2002 as a reminder, Mr. Atkinson he did not comply. On June 3, 2002, Mr. Atkinson's staff advised the Commissioner of Accounts that the information would be provided by the end of the week; however, that never occurred.

29. Accordingly, the Commissioner of Accounts made his report to the circuit court and caused a Show-Cause Order to be issued, with a hearing scheduled for August 16, 2002.

30. On August 14, 2002, Mr. Atkinson filed an amended accounting, and the show-cause was dismissed.

31. Mr. Atkinson explained that the problem was caused by an out-of-state heir's failure to endorse a receipt for stock. The problem was resolved when Mr. Atkinson later learned that the heir never received the stock, that it had been redeemed for cash that the heir wanted.

II. DISCIPLINARY RULE VIOLATIONS (continued)

03-010-0083

Commissioner of Accounts, Alvin P. Anderson, Complainant

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

I. ALLEGATIONS OF FACT (continued)

03-010-0366

Complainant: VSB/Commissioner of Accounts (Catesby G. Jones, Jr.)

32. On February 23, 2000, Mr. Atkinson qualified as executor of the estate of Walter L. Hubbard before the Circuit Court for the County of Gloucester. The sole beneficiary was the decedent's friend, Teresa D. Barnett.

33. Mr. Atkinson failed to file the first settlement of accounts when it became due on June 23, 2001.

34. On August 8, 2001, the Commissioner of Accounts, Catesby G. Jones, Jr., sent a delinquency letter to Mr. Atkinson concerning the accounting. Mr. Atkinson responded that he was having trouble locating an heir in New Jersey, James Hubbard.

35. Mr. Atkinson having failed to file the accounting again, the Commissioner of Accounts sent another delinquency letter on October 19, 2001.

36. Mr. Atkinson still failed to file the accounting, and the Commissioner of Accounts issued a third delinquency letter on December 27, 2001, advising him that the accounting was "seriously overdue."

37. Mr. Atkinson still failed to file the accounting, and the Commissioner of Accounts issued a fourth delinquency letter on August 5, 2002. On this occasion, he sent copies to the Judge of the Circuit Court, and to the Virginia State Bar.

38. Mr. Atkinson submitted the accounting on September 11, 2002, indicating that the assets had been distributed to Ms. Barnett.

39. Having received the Commissioner of Accounts' last letter, the Virginia State Bar opened a formal complaint. By letter, dated August 9, 2002, the bar asked Mr. Atkinson to respond.

40. Mr. Atkinson did not respond to the bar's complaint letter. He explained that upon receiving the bar's letter, he contacted the Commissioner of Accounts' assistant, Patricia Hunsberger, and asked her to inform the bar that he had complied with the Commissioner of Accounts' requirements. He explained further that, according to Ms. Hunsberger, she never filed a complaint with the bar. For this reason, he did not respond to the bar complaint.

41. Mr. Atkinson said that he is downsizing his practice, that he decided not to accept any new offers to be executor or administrator of estates, that he intends to do real estate and wills, and focus on his title company, but that he will do no more estate work or personal injury work.

II. DISCIPLINARY RULE VIOLATIONS (continued)

03-010-0366

Commissioner of Accounts, Catesby G. Jones, Jr., Complainant

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application, in connection with any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

III. CERTIFICATION

Accordingly, it is the decision of the Subcommittee to certify the charges of misconduct to the Virginia State Bar Disciplinary Board.

FIRST DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

By J. Wayne Sprinkle
J. Wayne Sprinkle, Esquire
Chair

CERTIFICATE OF SERVICE

I certify that I have this 12th day of December 2003 caused to be mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a true and correct copy of the foregoing Subcommittee Determination (Certification) to Stuart Woodward Atkinson, Esquire, Respondent, at Suite 155, 714 J. Clyde Morris Boulevard, Newport News, Virginia 23601, his address of record with the Virginia State Bar, and to his counsel, Raighne C. Delaney, Esquire, at Boone, Kinney & Korman P.C., Suite 100, 2000 North 14th Street, Arlington, Virginia 22201, his address of record with the Virginia State Bar.

Raighne C. Delaney, Esquire
for Edward L. Davis, Assistant Bar Counsel