

VIRGINIA:

BEFORE THE SEVENTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF SPENCER DEAN AULT, ESQ.  
VSB DOCKET NO. 04-070-2909

SUBCOMMITTEE DETERMINATION  
PUBLIC ADMONITION WITH TERMS

On the 4<sup>th</sup> day of February, 2005, a meeting in this matter was held before a duly convened subcommittee of the Seventh District Committee consisting of Thomas Joseph Chasler, Esq., Steven H. Gordon, and Frederick Warren Payne, Esq., presiding.

Pursuant to Part 6, § IV, ¶ 13(G)(1)(c) of the *Rules of Virginia Supreme Court*, a subcommittee of the Seventh District Committee of the Virginia State Bar hereby serves upon the Respondent the following Public Admonition with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto the Respondent, Spencer Dean Ault, Esq. (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about May 12, 2001, the Respondent qualified as guardian and conservator for an incapacitated adult, Reavis C. Sproull, Jr.
3. On January 30, 2004, William B. Hanes, Commissioner of Accounts for the Circuit Court of Loudoun County, issued a summons against the Respondent. The summons required the Respondent to file revised First and Second Accountings of the Sproull estate with supporting documentation, and to pay the required late fees. The Respondent received personal service of the summons on February 12, 2004.

4. On April 7, 2004, Commissioner Hanes advised the Honorable James H. Chamblin, Judge of the Circuit Court for Loudoun County, that Mr. Ault had not complied with the Commissioner's summons. Commissioner Hanes also delivered to the Clerk of the Court a copy of the letter to Judge Chamblin and a copy of the summons. The Commissioner requested the Clerk to proceed in accordance with the requirements of Section 26-13 of the Code of Virginia and issue a summons for the Respondent to appear at a show cause hearing. The matter was set originally for hearing on June 4, 2004. On April 19, 2004, the Show Cause Summons was personally served on the Respondent by the Sheriff's Department.

5. The Virginia State Bar was copied on the Commissioner's letter to the Clerk, and a disciplinary file was opened based on Commissioner Hanes's complaint that the Respondent was a delinquent fiduciary for failure to file the amended First and Second Accountings for the Sproull estate. On April 26, 2004, an Assistant Bar Counsel for the Virginia State Bar (VSB) made a lawful demand for the Respondent to submit a written answer to the complaint within twenty-one (21) days. On August 31, 2004, the VSB Investigator assigned to investigate this matter received a written response from the Respondent.

6. In his response to the Bar, the Respondent stated that he had filed accountings on January 10, 2002, March 13, 2002, February 10, 2003, April 30, 2003, August 15, 2003, and March 25, 2004. However, Commissioner Hanes had objections to these accountings to which the Respondent had to answer, as well as make corrections and revisions to his accountings.

7. The Respondent filed the amended First and Second Accountings and certified to their truth and accuracy on June 2, 2004, and paid the appropriate fees. On June 4, 2004, Judge Chamblin heard evidence that the accountings were filed but not yet approved by Commissioner Hanes, and the matter was continued to September 3, 2004 by Order entered July 20, 2004.

Commissioner Hanes reviewed the First and Second Accountings. On September 2, 2004, he requested that the matter be removed from Judge Chamblin's docket for September 3, 2004, and the matter was dismissed.

## II. NATURE OF MISCONDUCT

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

### **RULE 1.3 Diligence**

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

## III. PUBLIC ADMONITION WITH TERMS

Accordingly, it is the decision of the Subcommittee to offer the Respondent a Public Admonition with Terms. Disposition of this complaint is predicated upon Respondent's compliance with the terms set forth below.

### TERMS

1. The Respondent shall file the next accounting of the Sproull estate by its due date, May 2, 2005, and have it in proper form to be approved by the Commissioner of Accounts for the County of Loudoun by August 31, 2005.
2. The terms and conditions shall be met and made known to the Bar by August 31, 2005.
3. Upon satisfactory proof that the above noted terms and conditions have been met, a Public Admonition with Terms shall then be imposed.

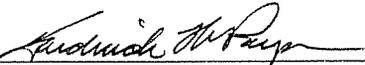
### ALTERNATE DISPOSITION

If, however, the terms and conditions have not been met by August 31, 2005, a Public Reprimand shall be imposed.

COSTS

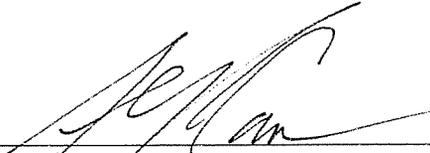
Pursuant to Part Six, § IV, ¶ 13(B)(8)(c)(1) of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess costs.

SEVENTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By   
Chair/~~Chair Designate~~

CERTIFICATE OF SERVICE

I certify that I have this 11<sup>th</sup> day of FEBRUARY, 2005, mailed a true and correct copy of the Subcommittee Determination (Public Admonition with Terms) by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Respondent, Spencer Dean Ault, Esq., at 15 Loudoun St., SW, Suite C, Leesburg, VA 20175, his last address of record with the Virginia State Bar.

  
Alfred L. Carr  
Assistant Bar Counsel