

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTERS OF  
PATRICK ROSS BYNUM, JR.**

**VSB Docket Nos. 04-033-3260  
and 04-033-3261**

**ORDER**

These matters came before the Virginia State Bar Disciplinary Board upon certification from the Third District Committee, Section III. On December 19, 2005, a proposed Agreed Disposition was presented via telephone conference call to a duly convened panel consisting of Max V. Beard, lay member, and attorneys Robert E. Eicher, Joseph R. Lassiter, Jr., William H. Monroe, Jr., and Robert L. Freed, Chair. The Respondent, Patrick R. Bynum, Jr., was present, and Barbara Ann Williams, Bar Counsel, represented the Virginia State Bar.

The Chair polled the panel members to determine whether any member had a personal or financial interest in this matter that might affect or reasonably be perceived to affect his ability to be impartial in this proceeding. Each member, including the Chair, verified that he had no conflicts.

Having considered the proposed Agreed Disposition and the representations of counsel, the Disciplinary Board accepted the Agreed Disposition and finds by clear and convincing evidence as follows:

**I. Findings of Fact**

1. Mr. Bynum was admitted to the practice of law in the Commonwealth of Virginia on September 21, 1972, and at all times relevant to this proceeding was active and in good standing to practice law in Virginia.

2. Mr. Bynum is the holder of escrow account number 0201244829 at SunTrust Bank.
3. On or about April 26, 2004, SunTrust Bank submitted a Notice of Paid/Returned Items to the Virginia State Bar on account number 0201244829 indicating that a check drawn on the account in the amount of \$200.00 had been returned for insufficient funds because the account balance was \$13.04.
4. The \$200.00 overdraft notice gave rise to VSB Docket No. 04-033-3260.
5. On or about April 28, 2004, SunTrust Bank submitted a second Notice of Paid/Returned Items to the Virginia State Bar on account number 0201244829 indicating that a check drawn on the account in the amount of \$50.00 had been returned for insufficient funds because the account balance was \$13.04.
6. The \$50.00 overdraft notice gave rise to VSB Docket No. 04-033-3261.
7. By letters dated May 3 and 4, 2004, Assistant Intake Counsel requested Mr. Bynum to provide a written explanation of the status of his trust account including what caused each overdraft and any steps he had taken to avoid a recurrence.
8. In a letter to Assistant Intake Counsel dated May 7, 2004, Mr. Bynum stated that the overdrafts were the result of a mathematical error and that he had taken steps to ensure that the same problems did not occur again, including an independent audit of his escrow account from 1996 through 2004.
9. An independent audit Mr. Bynum commissioned of his bank statements from 1999 through 2004 disclosed five deficiencies, including poorly documented ledger sheets, failure to allow deposits to clear before issuing funds, failure to deduct service charges and failure to make at least one deposit in a timely manner.
10. When a bar investigator interviewed Mr. Bynum on July 20, 2004, he was unable to produce his escrow account check book register or a disbursement journal for the investigator's review at that time.
11. A random audit the bar investigator conducted of Mr. Bynum's escrow account in August 2004 disclosed that in one matter he failed to withdraw fees on deposit in his escrow account promptly after earning them.
12. An audit the bar investigator conducted of Mr. Bynum's trust account records for September 2003 through September 2004 revealed that on two

occasions he failed to deposit funds in his escrow account in a timely manner.

**B. Findings of Misconduct**

The foregoing findings of fact give rise to the following findings of misconduct.

**RULE 1.15 Safekeeping Property**

(a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

- (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
- (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

\* \* \*

(f) Required Escrow Accounting Procedures. The following minimum escrow accounting procedures are applicable to all escrow accounts subject to Rule 1.15(a) and (c) by lawyers practicing in Virginia.

\* \* \*

- (4) Periodic trial balance. A regular periodic trial balance of the subsidiary ledger shall be made at least quarter annually, within 30 days after the close of the period and shall show the escrow account balance of the client or other person at the end of each period.
  - (i) The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of monies received in escrow for the period and deducting the total of escrow monies disbursed for the period; and
  - (ii) The trial balance shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.

(5) **Reconciliations.**

- (i) **A monthly reconciliation shall be made at month end of the cash balance derived from the cash receipts journal and cash disbursements journal total, the escrow account checkbook balance, and the escrow account bank statement balance;**
- (ii) **A periodic reconciliation shall be made at least quarter annually, within 30 days after the close of the period, reconciling cash balances to the subsidiary ledger trial balance;**
- (iii) **Reconciliations shall identify the preparer and be approved by the lawyer or one of the lawyers in the law firm.**

\* \* \* \*

**III. Disposition**

Given that the trust account irregularities in question did not harm any client and Mr. Bynum took proactive steps to ensure that in the future his handling of trust funds and his trust account record keeping practices will comply with the Rules of Professional Conduct, the Disciplinary Board, Mr. Bynum and Bar Counsel agree that a public reprimand is an appropriate disposition of this matter. Therefore, it is **ORDERED** that a public reprimand shall be issued to Mr. Bynum.

The court reporter for this hearing on the Agreed Disposition was Donna Chandler of Chandler and Halasz Court Reporters, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222.

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

It is **ORDERED** that a copy teste of this Order shall be mailed by certified mail, return receipt requested, to Mr. Bynum, at his last address of record with the Virginia State Bar, The Lockwood Office Building, Suite 218, 9097 Atlee Station Road,

Mechanicsville, Virginia 23116, and hand delivered to Barbara Ann Williams, Bar Counsel, at the Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, Virginia 23219.

Enter this Order this 21 day of DECEMBER, 2005.

**VIRGINIA STATE BAR DISCIPLINARY BOARD**

By:   
Robert L. Freed, Chair