

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
JIMMIE RAY LAWSON, II, ESQUIRE**

**VS B Docket No.s: 04-090- 1935
04-090-2047
04-090-2850
04-090-3059
05-090-2261
05-090-2478
05-090-2629
05-090-2942
05-090-2990
05-090-3184**

ORDER OF REVOCATION

THESE MATTERS came on to be heard on June 24, 2005, before a panel of the Disciplinary Board consisting of Karen A. Gould, Chair, Robert E. Eicher, David R. Schultz, William H. Monroe, Jr., and W. Jefferson O'Flaherty, Lay Member. The Virginia State Bar was represented by Kathryn R. Montgomery, Assistant Bar Counsel. The Respondent, Jimmie Ray Lawson, II, did not attend the hearing but was represented by his counsel, Gilbert K. Davis, who was in attendance. The Chair polled the members of the Board Panel as to whether any of them had any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative. Ms. Donna T. Chandler, a Registered Professional Reporter of Chandler & Halasz, P.O. Box 9349, Richmond, Virginia, 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

These matters came before the Board on the District Committee Determinations for Certification by the Ninth District Committee. VS B Exhibits 1 thru 40 were moved into

evidence by the Bar and were admitted without objection. All required notices were properly sent by the Clerk of the Disciplinary System.

FINDINGS OF FACT RELEVANT TO ALL CASES

The Board makes the following findings of fact on the basis of clear and convincing evidence:

1. At all times material to these Certifications, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia. Respondent was licensed by the Virginia State Bar on April 16, 1998. Respondent has been a sole practitioner in the Martinsville, Virginia, area for approximately five (5) years.

**FINDINGS OF FACT RELEVANT TO VSB DOCKET NOS.
04-090-1935, 04-090-2047, 04-090-2850 and 04-090-3059**

2. On or about December 19, 2003, Respondent wrote a check from his trust account in the amount of \$69,781.46, which was returned for insufficient funds. In a letter dated May 14, 2004, Respondent advised the Bar that the overdraft was due to an incorrect wire sent from his office to the law firm of Glasser & Glasser in the amount of \$22,305.48 on July 28, 2003. (Applicable to VSB Docket No. 04-090-1935).

3. In December, 2003, Respondent wrote three checks from his trust account to the Henry County Circuit Court Clerk's Office which were returned for insufficient funds. The first check was written on or about December 19, 2003 in the amount of \$105. The second and third checks were written on or about December 29, 2003 and were in the amounts of \$90 and \$241.20. In a letter dated May 14, 2004, Respondent advised the Bar that the overdrafts were due to an

incorrect wire sent from his office to Glasser& Glasser in the amount of \$22,305.48 on July 28, 2003. (Applicable to VSB Docket No. 04-090-2850).

4. On or about January 7, 2004, Respondent wrote three checks from his trust account in the amounts of \$178, \$202.60, and \$305, which were returned for insufficient funds. In a letter dated May 14, 2004, Respondent advised the Bar that the overdrafts were due to an incorrect wire sent from his office to Glasser& Glasser in the amount of \$22,305.48 on July 28, 2003. (Applicable to VSB Docket No. 04-090-2047).

5. On or about April 2, 2004, Respondent wrote four checks from his trust account in the amounts of \$3,500, \$3,500, \$4,500, and \$4,500, which were returned for insufficient funds. In a letter dated May 15, 2004, Respondent advised the Bar that the overdrafts were due to the failure of Jared Johnson, the manager of Club Matrix, a nightclub owned by Respondent, to deposit \$16,000 into the trust account as instructed by Respondent. (Applicable to VSB Docket No. 04-090-3059).

6. In the summer of 2003, the Virginia State Bar notified Respondent by letter that it had received an overdraft notice from his bank regarding a check in the amount of \$194,628.16 drawn on his trust account. By letter dated July 29, 2003, Respondent explained that the overdraft was caused by his office depositing funds in the wrong trust account. Respondent said his firm had a trust account dedicated to residential real estate closings under the Virginia Consumer Real Estate Settlement Protection Act and a trust account for all other purposes. As a result of this response, the Bar dismissed the complaint.

7. On May 13, 2004, the Bar's investigator interviewed Respondent regarding his trust account overdrafts occurring in December, 2003, and January, 2004. At that time, Respondent

said he had one trust account that he used for all purposes, including residential real estate closings under the Virginia Consumer Real Estate Settlement Protection Act.

8. During this interview, Respondent also advised the Bar investigator that, in addition to his law practice, he is a sports promoter and investor in various businesses, including real estate, the recording industry, and nightclubs. Respondent said he owns and operates Laurel Properties, LLC, which he explained is a business that buys, sells, and rents homes. Respondent also said he owned and operated Club Matrix, LLC, a nightclub located in Nashville, Tennessee, which he closed in January or February, 2004, due to a shooting outside the club. He also said he owns and operates Villa Records, LLC, a music recording company. Respondent said he is the President of Villa Records and Shawn Wilson is the CEO.

9. Respondent further advised the Bar's investigator that he has never attempted to learn the requirements relating to trust accounts or how to manage a trust account.

10. Respondent has failed to create or maintain trust account records as required by Rule 1.15 of the Rules of Professional Conduct including, but not necessarily limited to, subsidiary ledger cards, cash receipts and disbursement journals, and reconciliations.

11. Respondent has commingled funds in his trust account. He has used his trust account for residential real estate closings governed by the Virginia Consumer Real Estate Settlement Protection Act, has deposited funds earmarked for investment purposes in the trust account, and has disbursed funds from his trust account for the following improper purposes: writing checks for payroll, paying for office repairs, loans, and investing his clients' money in various business transactions, including financing Villa Records, LLC, Club Matrix, LLC, and Laurel Properties, LLC.

12. From September 29, 2003 to January 14, 2004, Respondent made the following disbursements from his trust account (this listing is not exhaustive of all disbursements):

CHECK NUMBER	PAYEE	DATE OF CHECK	AMOUNT	MEMO
2050	Jimmie R. Lawson, II, Esquire (Respondent)	9/29/03	\$15,000.00	"Villa Investment funds"
2051	Darrell Clark	9/29/03	\$8,000.00	"Investment return"
2054	Laurel Properties, LLC	10/2/03	\$5,000.00	"L.Properties"
2055	Shawn Wilson (Respondent's business partner)	10/2/03	\$9,500.00	"Villa"
2056	Carol Matthews (Respondent's receptionist)	10/2/03	\$8,500.00	"Villa"
2057	BB&T	10/2/03	\$4,669.96	"Villa"
2059	Jimmie R. Lawson, II	10/7/03	\$5,000.00	"Villa"
2061	Laurel Properties, LLC	10/8/03	\$8,000.00	None
2062	Laurel Properties, LLC	10/15/03	\$2,000.00	None
2063	Jimmie R. Lawson, II	10/14/03	\$5,000.00	"Villa"
2065	Laurel Properties, LLC	10/15/03	\$2,000.00	None
2066	Jimmie R. Lawson, II	10/19/03	\$50,000.00	"Real Estate Inv."
2067	BB&T	10/19/03	\$6,600.00	"Illegible/Bowe"

2076	BB&T	10/21/03	\$37,000.00	"Club Matrix, LLC"
2078	Darrell Carter	11/3/03	\$8,000.00	"Investment reimbursement"
2081	BB&T	11/9/03	\$10,000.00	"Club Matrix"
2078	Darrell Carter	11/7/03	\$8,000.00	"Final investment reimbursement"
2085	Laurel Properties	11/10/03	\$5,000.00	None
2086	Jimmie R. Lawson, II	11/10/03	\$5,000.00	"Villa/Riddick Bowe investment"
2087	Laurel Properties	11/12/03	\$5,000.00	None
2088	Jimmie R. Lawson, II	11/14/03	\$5,000.00	"Villa/Riddick Bowe investment"
2089	Carol M. Mathews	11/14/03	\$242.89	"payroll"
2090	Tammy A. Koger	11/14/03	\$446.16	"payroll"
2088	Jimmie R. Lawson, II	11/19/03	\$5,000.00	"Villa/Riddick Bowe investment"
2093	Carol M. Mathews	11/21/03	\$267.37	"Payroll"
2094	Jimmie R. Lawson, II	11/21/03	\$5,000.00	"Villa/Riddick Bowe investment"
2095	Shawn Wilson	11/25/03	\$5,000.00	"Villa"
2096	Shawn Wilson	11/25/03	\$4,000.00	"Villa"
2099	Jimmie R. Lawson, II	12/3/03	\$2,500.00	"Villa/Riddick Bowe Investment"

2100	Allen Wyatt	12/5/03	\$671.50	“Club Matrix”
2101	Tammy A. Koger (Respondent’s paralegal)	12/5/03	\$375.00	“Club Matrix”
2102	Jimmie R. Lawson, II	12/5/03	\$3,000.00	“Villa/Riddick Bowe Investment”
2105	BB&T	12/9/03	\$13,211.09	“Spectrum Realty/Club Matrix”
2108	Jimmie R. Lawson, II	12/12/03	\$4,000.00	“Club Matrix”
2112	Jimmie R. Lawson, II	12/16/03	\$12,000.00	“Villa/Riddick Bowe investment”
2117	Club Matrix, LLC	12/23/03	\$5,000	“Loan return/Riddick Bowe”
2137	Club Matrix, LLC	1/13/04	\$5,000.00	“Matrix”
2139	Tammy Koger	1/14/04	\$2,500.00	“Loan”

13. During the Bar’s investigation of Respondent’s trust account overdrafts, Respondent advised that he represented Riddick Bowe, former heavyweight boxing champion of the world, and that he had negotiated a deal with Kirk Kerkorian, the owner of the MGM Grand in Las Vegas, to have Bowe fight exclusively at the MGM Grand for three (3) years in exchange for \$40 million dollars.

14. In his response to a subpoena for trust account records issued by the Bar, Respondent submitted a document dated July 25, 2003 and entitled “Confidential Compensation Agreement.” The agreement purports to be between Respondent and his client, Riddick L. Bowe, Sr. The

agreement provides for compensation to Respondent in the amount of three (3) million dollars in consideration of Respondent having “solicited, negotiated and consummated, as Client’s power of attorney, a \$40 million Dollar [sic] venue deal for Client, a professional boxer, with the MGM Grand, Las Vegas.” The agreement further provides that the \$3 million dollar compensation shall be paid in increments, with the first \$625,000 being paid by November 15, 2003. The agreement further provides that Respondent shall invest the funds at his discretion in Villa Records, Club Matrix, and any other investments Respondent deems appropriate and that profits derived from the investments shall be split 50/50 between Riddick Bowe and Respondent.

15. Respondent submitted the “Confidential Compensation Agreement” with the intent to mislead the Bar in its investigation of Respondent’s trust account overdrafts. The “Confidential Compensation Agreement” submitted by Respondent to the Bar is a fraud. Respondent did not negotiate an exclusive boxing deal with the MGM Grand for Riddick Bowe, Riddick Bowe did not agree to pay Respondent three (3) million dollars, and Riddick Bowe did not sign the contract.

16. In an attempt to mislead the Bar and continue the ruse regarding an exclusive boxing contract with the MGM Grand, Respondent submitted a letter to the Bar’s investigator dated June 4, 2003 from himself as “CEO & President” of Split Decision Entertainment, LLC to Kirk Kerkorian, President of Tracinda Corporation and Richard Sturm, President of MGM Mirage Entertainment and Sports. In the letter, Respondent indicated that he represents Riddick Bowe, former heavyweight champion of the world, and that the correspondence constitutes a letter of intent and informal contract for Riddick Bowe to fight exclusively at the MGM Grand over a three year period in exchange for \$40 million dollars. However, MGM Mirage Entertainment

and Sports and Respondent did not enter into an exclusive boxing contract for Riddick Bowe to fight exclusively at the MGM Grand for \$40 million dollars, or any amount of money.

17. On September 22, 2003, while incarcerated in federal prison, Riddick Bowe signed a general power of attorney appointing Respondent as his attorney-in-fact. The power of attorney provides, among other things, that Respondent has the power to “compromise claims and institute, settle, appeal or dismiss litigation or other legal proceedings touching [Bowe’s] estate or any part thereof, or touching any matter in which [Bowe] or [his] estate may be in anyway concerned.” The power of attorney also provides that Respondent “shall incur no liability to [Bowe], [his] estate, [his] heirs, successors, or assigned for acting or refraining from acting hereunder, except for willful misconduct or gross negligence.”

18. On September 25, 2003, Respondent completed and signed a Power of Attorney Affidavit with Bank of America Investment Services, Inc. In so doing, Respondent became the designated Attorney-in-Fact for the Riddick L. Bowe Revocable Trust, a brokerage account.

19. On October 2, 2003, the Riddick L. Bowe Revocable Trust wired \$490,687.55 to Respondent’s trust account. On October 9, 2003, on behalf of Riddick Bowe, Respondent wired \$490,000.00 from his trust account to the Community Bank of Northern Virginia on behalf of the Gulick Group, a homebuilder, to pay penalties and late fees and to reinstate a real estate contract Riddick Bowe had signed with Gulick Group on February 7, 2002.

20. On October 3, 2003, the Riddick L. Bowe Revocable Trust wired \$625,000.00 to Respondent’s trust account. On one occasion, Respondent told the Bar’s investigator that Mr. Bowe instructed him to take \$300,000 of the \$625,000 and pay it in cash to an individual named “Jay.” Respondent said “Jay” later called him and said if he did not get the money, he would

“send the dogs after [Respondent and Bowe].” Respondent said he refused to meet with “Jay” or give him any money.

21. Respondent also told the Bar’s investigator that the \$625,000 wired into his trust account was for investments Mr. Bowe asked him to make in real estate ventures, and that he invested the funds in Laurel Properties, Villa Records and Club Matrix. Respondent admits he lost \$300,000 of Bowe’s money in these investments. Between October 3, 2003 and October 31, 2003, Respondent made at least \$123,600 in improper disbursements from his trust account. By October 31, 2003, Respondent had a balance of \$129,341.65 in his trust account. During this time, Respondent was also depositing and disbursing client funds from his trust account for residential real estate closings and other matters related to his law practice.

22. Respondent has filed no IRS records for any investor or investment entity.

23. On June 12, 2004, Respondent and Riddick Bowe signed an agreement releasing Mr. Bowe as of June 5, 2004 from all contracts or agreements with Respondent, Split Decision Entertainment, LLC and Back on the Block Entertainment.

24. In June 2004, according to Respondent, Mr. Bowe demanded a refund of \$480,000.00 or else “they could not do business together.” Respondent then wrote the following checks:

CHECK NUMBER	PAYEE	DATE OF CHECK	AMOUNT	MEMO
3715	Riddick L. Bowe	6/24/04	\$100,000.00	“partial reimbursement”
3717	Riddick L. Bowe	6/28/04	\$100,000.00	“partial reimbursement”
3718	Riddick L. Bowe	6/28/04	\$100,000.00	“partial reimbursement”

25. The checks listed above were returned from insufficient funds. At the time he wrote these checks, Respondent knew he had insufficient funds to cover them.

26. Respondent wrongfully took funds from his trust account that belonged to Mr. Bowe without his permission. In a Settlement Agreement (“Agreement”) between Respondent and Mr. Bowe dated September 30, 2004, Respondent admitted that he wrongfully took \$520,000.00 from his trust account that belonged to Mr. Bowe.

27. The Agreement provided that Respondent would repay Mr. Bowe the funds in installment payments in consideration for Mr. Bowe’s agreement not to report Respondent to the Virginia State Bar or to law enforcement authorities.

CHARGES OF MISCONDUCT

Following closing argument at the conclusion of the evidence regarding the allegations of misconduct in matters numbered 04-090-1935, 04-090-2047, 04-090-2850 and 04-090-3059, the Board recessed to deliberate. The Board reviewed the foregoing findings of fact, the exhibits presented by Bar Counsel on behalf of the VSB and the testimony of each witness called to testify. After due deliberation the Board reconvened and stated its findings as follows:

The Board determined that the VSB failed to prove by clear and convincing evidence that the Respondent violated Rule 1.5 (a) (1) – (8) of the Virginia Rules of Professional Conduct. This rule deals with the reasonableness of attorney’s fees and provides several factors to be considered when a question is raised concerning such fees.

While it was argued that the fees charged and/or allegedly charged by Respondent in his representation of Mr. Bowe were unauthorized and even fraudulent, the Bar has offered no exhibit nor provided testimony from any witness that would prove any claim related to a violation of Rule 1.5 (a) (1) – (8) as regarding the *reasonableness* of any attorney fees charged.

The Board determined that the VSB had proved by clear and convincing evidence that the Respondent violated each of the following Virginia Rules of Professional Conduct:

RULE 1.8 Conflict of Interest: Prohibited Transactions

- (a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:
 - (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client;
 - (2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and
 - (3) the client consents in writing thereto.
- (h) A lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice, except that a lawyer may make such an agreement with a client of which the lawyer is an employee as long as the client is independently represented in making the agreement.

There is no question that the evidence submitted by the Bar clearly shows that the Respondent willingly and knowingly entered into both contractual and financial matters with his client, Mr. Riddick Bowe, in violation of the conflict of interest concerns expressed in Rule 1.8. The Respondent admitted to utilizing Mr. Bowe's funds as "investments" in ventures that were personal to the Respondent himself. These included transactions with a recording company, Villa Records, LLC, a night club, Club Matrix, LLC, in addition to alleged investments in other real estate transactions through an entity called Laurel Properties, LLC. Each of these LLC's were admittedly owned by the Respondent. (See paragraph 8 of the *First Amended Direct Certification* of the Ninth District Committee and Respondent's Answer admitting this allegation of ownership. See also VSB Exhibit 16 confirming Respondent's investment of his client's

funds in these ventures as part of an alleged “Compensation Agreement.”) The Board also considered the deposition testimony of Mr. Bowe wherein he testified that he never authorized the Respondent to invest funds in these LLC’s. (See VSB Exhibit 24 - deposition of Riddick Bowe, p.16, lines 6-12.)

Subsequently, a lawsuit filed by Mr. Bowe against the Respondent was settled under terms that called for the Respondent to return the funds taken from Mr. Bowe by the Respondent. In the Settlement Agreement, (see VSB Exhibit 3 – “Settlement Agreement, Section 3, Forbearance), the Respondent violated Rule 1.8(h) when he required language that attempted to limit Respondent’s liability for acts of malpractice and/or fraud inflicted upon Mr. Bowe by prohibiting Mr. Bowe from reporting such acts to the Bar or taking further action in the courts. Mr. Bowe also testified that the Respondent signed the proposed Settlement Agreement only after he agreed not to report him to the Bar or the police. (See VSB Exhibit 24, deposition of Riddick Bowe, pp.16-17, lines 24 – 5). It is interesting to note that Respondent did not honor the terms of the Settlement Agreement, providing settlement payments by checks that bounced. Eventually, the Court entered a Default Judgment in favor of Mr. Bowe for the full amount of damages sought in the Complaint.

Respondent was also charged with violating Rule 1.15:

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.
- (c) A lawyer shall:
 - (1) promptly notify a client of the receipt of the client's funds, securities, or other properties;
 - (2) identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable;
 - (3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them; and
 - (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.
- (d) Funds, securities or other properties held by a lawyer or law firm as a fiduciary shall be maintained in separate fiduciary accounts, and the lawyer or law firm shall not commingle the assets of such fiduciary accounts in a common account (including a book-entry custody account), except in the following cases:
 - (1) funds may be maintained in a common escrow account subject to the provisions of Rule 1.15(a) and (c) in the following cases:
 - (i) funds that will likely be disbursed or distributed within thirty (30) days of deposit or receipt;
 - (ii) funds of \$5,000.00 or less with respect to each trust or other fiduciary relationship;
 - (iii) funds held temporarily for the purposes of paying insurance premiums or held for appropriate administration of trusts otherwise funded solely by life insurance policies; or
 - (iv) trusts established pursuant to deeds of trust to which the provisions of Code of Virginia Section 55-58 through 55-67 are applicable;

- (2) funds, securities, or other properties may be maintained in a common account:
 - (i) where a common account is authorized by a will or trust instrument;
 - (ii) where authorized by applicable state or federal laws or regulations or by order of a supervising court of competent jurisdiction; or
 - (iii) where (a) a computerized or manual accounting system is established with record-keeping, accounting, clerical and administrative procedures to compute and credit or charge to each fiduciary interest its pro-rata share of common account income, expenses, receipts and disbursements and investment activities (requiring monthly balancing and reconciliation of such common accounts), (b) the fiduciary at all times shows upon its records the interests of each separate fiduciary interest in each fund, security or other property held in the common account, the totals of which assets reconcile with the totals of the common account, (c) all the assets comprising the common account are titled or held in the name of the common account, and (d) no funds or property of the lawyer or law firm or funds or property held by the lawyer or the law firm other than as a fiduciary are held in the common account.

For purposes of this Rule, the term "fiduciary" includes only personal representative, trustee, receiver, guardian, committee, custodian and attorney-in-fact.

- (e) Record-Keeping Requirements, Required Books and Records. As a minimum requirement every lawyer engaged in the private practice of law in Virginia, hereinafter called "lawyer," shall maintain or cause to be maintained, on a current basis, books and records which establish compliance with Rule 1.15(a) and (c). Whether a lawyer or law firm maintains computerized records or a manual accounting system, such system must produce the records and information required by this Rule.
 - (1) In the case of funds held in an escrow account subject to this Rule, the required books and records include:
 - (i) a cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;

- (ii) a cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;
 - (iii) subsidiary ledger. A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts;
 - (iv) reconciliations and supporting records required under this Rule;
 - (v) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.
- (2) in the case of funds or property held by a lawyer or law firm as a fiduciary subject to Rule 1.15(d), the required books and records include:
- (i) an annual summary of all receipts and disbursements and changes in assets comparable to an accounting that would be required of a court supervised fiduciary in the same or similar capacity. Such annual summary shall be in sufficient detail as to allow a reasonable person to determine whether the lawyer is properly discharging the obligations of the fiduciary relationship;
 - (ii) original source documents sufficient to substantiate and, when necessary, to explain the annual summary required under (i), above;
 - (iii) the records required under this paragraph shall be preserved for at least five full calendar years following the termination of the fiduciary relationship.
- (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.

(1) Insufficient fund check reporting.

- (i) Clearly identified escrow accounts required. A lawyer or law firm shall deposit all funds held in escrow in a clearly identified account, and shall inform the financial institution in writing of the purpose and identify of such account. Lawyer escrow accounts shall be maintained only in financial institutions approved by the Virginia State Bar, except as otherwise expressly directed in writing by the client for whom the funds are being deposited;
- (ii) Overdraft notification agreement required. A financial institution shall be approved as a depository for lawyer escrow accounts if it shall file with the Virginia State Bar an agreement, in a form provided by the Bar, to report to the Virginia State Bar in the event any instrument which would be properly payable if sufficient funds were available, is presented against a lawyer escrow account containing insufficient funds, irrespective of whether or not the instrument is honored. The Virginia State Bar shall establish rules governing approval and termination of approved status for financial institutions. The Virginia State Bar shall maintain and publish from time to time a list of approved financial institutions.

No escrow account shall be maintained in any financial institution which does not agree to make such reports. Any such agreement shall apply to all branches of the financial institution and shall not be canceled by the financial institution except upon thirty (30) days notice writing to the Virginia State Bar, or as otherwise agreed to by the Virginia State Bar. Any such agreement may be canceled without prior notice by the Virginia State Bar if the financial institution fails to abide by the terms of the agreement;

- (iii) Overdraft reports. The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:
 - (a) in the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and should include a copy of the dishonored instrument, if such a copy is normally provided to depositors;
 - (b) in the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the lawyer or law firm, the account name, the account number, the date

of presentation for payment, and the date paid, as well as the amount of the overdraft created thereby;

(c) such reports shall be made simultaneously with and within the time provided by law for notice of dishonor to the depositor, if any. If an instrument presented against insufficient funds is honored, then the report shall be made within five (5) banking days of the date of presentation for payment against insufficient funds;

(iv) Financial institution cooperation. In addition to making the reports specified above, approved financial institutions shall agree to cooperate fully with the Virginia State Bar and to produce any lawyer escrow account or other account records upon receipt of a subpoena therefor.

A financial institution may charge for the reasonable costs of producing the records required by this Rule.

(v) Lawyer cooperation. Every lawyer or law firm shall be conclusively deemed to have consented to the reporting and production requirements mandated by this Rule;

(vi) Definitions. "Lawyer" means a member of the Virginia State Bar, any other lawyer admitted to regular or limited practice in this State, and any member of the bar of any other jurisdiction while engaged, pro hac vice or otherwise, in the practice of law in Virginia;

"Lawyer escrow account" or "escrow account" means an account maintained in a financial institution for the deposit of funds received or held by a lawyer or law firm on behalf of a client;

"Client" includes any individual, firm, or entity for which a lawyer performs any legal service, including acting as an escrow agent or as legal representative of a fiduciary, but not as a fiduciary. The term does not include a public or private entity of which a lawyer is a full-time employee;

"Dishonored" shall refer to instruments which have been dishonored because of insufficient funds as defined above;

"Financial institution" and "bank" include regulated state or federally chartered banks, savings institutions and credit unions which have signed the approved Notification Agreement, which

are licensed and authorized to do business and in which the deposits are insured by an agency of the Federal Government;

"Insufficient Funds" refers to an overdraft in the commonly accepted sense of there being an insufficient balance as shown on the bank's accounting records; and does not include funds which at the moment may be on deposit, but uncollected;

"Law firm" includes a partnership of lawyers, a professional or nonprofit corporation of lawyers, and a combination thereof engaged in the practice of law. In the case of a law firm with offices in this State and in other jurisdictions, these Rules apply to the offices in this State, to escrow accounts in other jurisdictions holding funds of clients who are located in this State, and to escrow accounts in other jurisdictions holding client funds from a transaction arising in this State;

"Notice of Dishonor" refers to the notice which, pursuant to Uniform Commercial Code Section 3-508(2), must be given by a bank before its midnight deadline and by any other person or institution before midnight of the third business day after dishonor or receipt of notice of dishonor. As generally used hereunder, the term notice of dishonor shall refer only to dishonor for the purpose of insufficient funds, or because the drawer of the bank has no account with the depository institution;

"Properly payable" refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under Uniform Commercial Code Section 4-104, if sufficient funds were available.

- (2) Deposits. All receipts of escrow money shall be deposited intact and a retained duplicate deposit slip or other such record shall be sufficiently detailed to show the identity of each item;
- (3) Deposit of mixed escrow and non-escrow funds other than fees and retainers. Mixed escrow and non-escrow funds shall be deposited intact to the escrow account. The non-escrow portion shall be withdrawn upon the clearing of the mixed fund deposit instrument;
- (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.
- (2) 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.
- (6) Receipts and disbursements explained. The purpose of all receipts and disbursements of escrow funds reported in the escrow journals and subsidiary ledgers shall be fully explained and supported by adequate records.

The evidence presented by the Bar relative to the allegations of Respondent's violations of Rule 1.15 and its subparts goes beyond clear and convincing. The Respondent was clearly guilty of issuing numerous checks from Respondent's trust account which were returned for insufficient funds. Despite the Respondent's contention that these returned checks were caused by innocent errors of office staff and/or business associates, it is blatantly apparent that the Respondent neither possessed the requisite knowledge needed to correctly administer his trust account, nor did he care. As a result, the Respondent utilized his trust account in such a way as to co-mingle funds of clients with other funds used for personal transactions and business operations.

The Board noted that Respondent admitted to the bar's investigator that he failed to create or maintain trust account records as required under Rule 1.15. An additional examination of the checks issued from the trust account of the Respondent clearly shows a co-mingling of funds and an improper use of the account for business operations and or personal purposes. (*See* VSB Exhibit 14 – photocopies of checks issued from the Respondent's trust account). Moreover, numerous overdraft notifications were received by the Bar from other counsel, BB&T Bank and the Honorable David V. Williams, Circuit Court Judge, City of Martinsville. (*See* VSB Exhibits 5,6,7, 9 and 11).

The explanations offered by the Respondent to explain these improper transactions are without merit and are wholly unacceptable to the Board. This is especially true in light of fraudulent conduct (discussed *infra*) in which the Respondent engaged against the interests of his client and in an effort to thwart the investigation of the Virginia State Bar.

Respondent was also charged with violations of Rule 8.1:

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, in connection with a disciplinary matter, shall not:

- (a) knowingly make a false statement of material fact;
- (d) obstruct a lawful investigation by an admissions or disciplinary authority.

Testimony offered by VSB Investigator, Clyde K. Venable, at the hearing described the Respondent as a man who initially appeared to be friendly, sincere and cooperative with the Bar and its investigation of the numerous instances of trust account violations. Despite the early appearances of cooperation and sincerity, however, Mr. Venable testified that he later came to

understand and realize that the Respondent was intentionally trying to thwart the Bar's investigation thru a series of lies, fabrications and misrepresentations.

The Respondent was asked to explain the allegation made by his client, Mr. Riddick Bowe, charging Respondent with the theft of \$625,000. Mr. Bowe transferred these funds to the Respondent for purposes of securing a loan to complete the construction of a new home being built in Virginia. At the time of this transaction, Mr. Bowe was serving time in a federal correctional center and needed the services of the Respondent to prevent a foreclosure on the partially constructed residence.

The Respondent advised Mr. Venable that the payment of \$625,000 by Mr. Bowe represented the initial portion of a three million dollar fee Respondent was entitled to receive pursuant to a "Confidential Compensation Agreement." (VSB Exhibit 16.) In this Agreement, Respondent was to receive the initial sum of \$625,000 for having successfully "solicited, negotiated and consummated" a Contract and Letter of Intent with the MGM Grand hotel in Las Vegas (VSB Exhibit 18). Specifically, under the terms of the Agreement, Mr. Bowe (a former world heavy weight boxing champion) would be paid forty million dollars over a three year period to participate in professional boxing matches held exclusively on the MGM Hotel property. It is important to note that Mr. Bowe testified that he had no knowledge of any contractual deal with MGM and he also testified that he never signed a number of documents in the possession of the Respondent that somehow bore what appeared to be his signature.

Further investigation by Mr. Venable revealed that the alleged contract and letter of intent with the MGM Grand was a fraud and had been fabricated by the Respondent as a means to mislead the Bar and prevent the Bar from learning that the Respondent had wrongfully directed

Mr. Bowe's funds toward, among other things, the business interests described *supra* personally owned by the Respondent.

In an Affidavit supplied to the Bar by the Vice President and General Counsel of MGM Mirage Entertainment and Sports ("MGM"), the Bar was advised that MGM had not entered into any exclusive boxing arrangement with Riddick Bowe for forty million dollars or any amount of money. Additionally, the Bar was advised that MGM did not have any plans to enter into any type of contract for boxing entertainment with the Respondent as manager or agent for Riddick Bowe nor did MGM have any plans to pay the Respondent any amount of money for an exclusive boxing deal with Riddick Bowe. (*See* VSB Exhibit 19).

Respondent was charged with violating Rule 8.4:

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation.

Over and above the actions of the Respondent as previously described, the evidence presented by the Bar unequivocally showed that the Respondent was intentionally perpetrating acts upon his client(s) that were fraudulent and dishonest.

As a result of the numerous issues surrounding Respondent's trust account, the Bar, pursuant to section 54.1-3936 of the Code of Virginia, sought to permanently enjoin Respondent from the continuing practice of law and petitioned the Court to appoint a General Receiver to

review Respondent's law practice and report his findings. (VSB Exhibit 27 – Hearing transcript before the Circuit Court of Henry County, Collinsville, Virginia).

After hearing argument of counsel and the sworn testimony of witnesses, the Court issued a capias for the Respondent to be brought before the Court to explain why he should not be held in contempt for violating a prior Order of the Court that prohibited Respondent from writing checks from his IOLTA trust account and/or other bank accounts. The Court also issued an Order sought by the Bar appointing attorney, Alan H. Black, as Receiver for the Respondent.

Mr. Black was called as a witness at the hearing and testified that he conducted a review and examination of Respondent's law office. Mr. Black issued a preliminary report (VSB Exhibit 40) stating the following findings:

- The Receiver discovered numerous statements from lenders to multiple "owners" for the same property.
- There were many loans that had been closed wherein the prior mortgage and lien holders had not been paid and/or releases had not been obtained.
- Documents were found that contained signatures cut out from one document and taped onto another, Forged Power of Attorney, Releases authorizing Access to Records, and Waivers of Notice in divorce files.
- In general, the Receiver found evidence of forgery, fraud, embezzlement, theft and identity theft on the part of Respondent.

The Receiver's report went on to document numerous instances of specific case files involving the intentional, willful, deceitful and dishonest conduct of the Respondent.

DISPOSITION

Thereafter, the Board received evidence of aggravation from Bar Counsel, i.e., Respondent's prior disciplinary record (one Dismissal with Terms effective July 9, 2002 and the Summary Suspension effective February 8, 2005) and testimony from aggrieved clients who had past dealings with the Respondent. The Board recessed to deliberate what sanction to impose

upon its finding of misconduct by Respondent. After due deliberation, the Board reconvened to announce the sanction imposed.

In light of the egregious and reprehensible conduct of the Respondent and the tremendous harm inflicted upon those who had the misfortune to retain his services, the Chair announced the sanction as being an immediate **REVOCATION** of the Respondent's license.

Thereafter, The Board felt it necessary to hear the remaining cases brought against the Respondent by the Bar, having been duly noticed for hearing and including the appearance of numerous other Complainants, some of whom had traveled significant distances in order to testify and present their cases.

It was agreed between Bar counsel and Respondent's counsel that the Complainants, if called to testify, would render testimony consistent with the *Findings of Fact* previously set forth by the Ninth District Committee certifications. Accordingly, the Board accepted the said *Findings of Fact* as follows:

FINDINGS OF FACT RELEVANT TO VSB Docket
No. 05-090-2261

28. On or about December 3, 2004, Respondent acted as the settlement agent for a residential real estate closing involving Complainant Rebecca Whitner, who was the seller.

29. After closing, Respondent issued Complainant check number 10442 written on his trust account with BB&T in the amount of \$151,567.50, which represented the sale proceeds. The deed was recorded.

30. Respondent deliberately misappropriated Complainant's funds. On or about December 9, 2004, Complainant received a notice from her bank that payment on check number 10442 had been stopped.

31. From December 9 through December 11, 2004, Complainant repeatedly and unsuccessfully tried to obtain the sale proceeds from Respondent.

32. Respondent blamed the bank for the error. After Complainant threatened legal action, on or about December 15, 2004, Respondent gave her three cashier's checks in the following amounts: \$10,000, \$20,000, and \$85,000. He also gave her a check written from his trust account in the amount of \$37,000 (check no. 10452).

33. On or about December 17, 2004, Complainant presented the \$37,000 check to BB&T. At that time, Respondent had only \$4021.85 in his trust account, and Complainant was denied payment.

34. Respondent later paid the remaining amount due from his trust account after Complainant again threatened legal action.

CHARGES OF MISCONDUCT

Respondent was charged with violating the following Rules of Professional Conduct in VSB Docket No. 05-090-2261:

RULE 1.15 Safekeeping Property

- (c) A lawyer shall:
 - (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

FINDINGS OF FACT RELEVANT TO VSB DOCKET
Nos. 05-090-2478 and 05-090-2629

35. On or about November 23, 2004, Respondent acted as the settlement agent for a real estate closing involving buyer Thomas Burnette and seller Thomas Gravely. The sales price was \$32,000. There was a deed of trust on the property for \$28,848.51, which was to be satisfied at closing by Respondent. The seller was paid and deed was recorded on or about November 29, 2004.

36. Subsequently, Respondent did not pay off the deed of trust, but instead deliberately embezzled the funds.

37. In March 2005, Respondent was indicted for embezzlement (grand larceny) by a grand jury sitting in Henry County.

CHARGES OF MISCONDUCT

Respondent was charged with violating the following Rules of Professional Conduct in VSB Docket No. 05-090-2478 and 2629:

RULE 1.15 Safekeeping Property

- (c) A lawyer shall:
 - (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

FINDINGS OF FACT RELEVANT TO VSB DOCKET
No. 05-090-2942

38. Kenneth Lewis, owner of Laurel Park Tire & Auto of Martinsville, Virginia, hired Respondent for debt collection work.

39. Mr. Lewis loaned Respondent between \$325,000 and \$350,000 to invest in various businesses after Respondent told him he could double his money. Respondent has never returned any funds to Mr. Lewis.

40. In 2002, Respondent obtained five (5) fraudulent loans in the name of Kenneth Lewis using various properties not owned by Respondent or Mr. Lewis as collateral. The loans obtained were:

LENDER	LOAN DATE	BALANCE DUE
Aurora Loan Company	4/1/2002	\$80,901
HSBC/MC Mortgage Company	7/1/2002	\$185,000
Mortgage Lenders USA	8/1/2002	\$173,000
Option One Mortgage	3/1/2002	\$76,003
Option One Mortgage	6/1/2002	\$190,000

41. Respondent forged Kenneth Lewis' name on various documents. Respondent also created fraudulent powers of attorney and loan documents by using a genuine signature of Mr. Lewis and cutting and pasting it to another document.

42. Respondent has failed to repay the loans he took out in Kenneth Lewis's name.

CHARGES OF MISCONDUCT

Respondent was charged with violating the following Rules of Professional Conduct in VSB Docket No. 05-090-2942:

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

FINDINGS OF FACT RELEVANT TO VSB DOCKET No. 05-090-2990 and 05-090-3184

43. Edward Dale Davidson retained Respondent to represent him on a personal injury matter. Mr. Davis had been in an automobile accident in February 2003 and had been hospitalized for a week with severe injuries, including a lost spleen.

44. Respondent did not meet with Mr. Davidson to discuss the case. Instead, Mr. Davidson met with Respondent's assistant, Tammy Koger, who said Respondent would take the case. During the representation, Respondent sent nothing to Mr. Davidson in writing, but told Mr. Davidson telephonically that he was working on the case.

45. In September 2004, Respondent settled Mr. Davidson's case for \$80,000 without his client's consent. Farmers Insurance Company issued check #6259009162 dated September 23, 2004 in the amount of \$80,000 payable to Edward Dale Davidson and his attorney, Jimmie R. Lawson, II.

46. Respondent forged Mr. Davidson's name to the check and embezzled the funds.

47. Respondent did not advise Mr. Davidson that his case had settled, and in fact, told him as late as December 2004 that “settlement negotiations were going well.”

48. Mr. Davidson has not since spoken with Respondent. Respondent has not made any payment to Mr. Davidson, nor advised Mr. Davidson that he settled the case without his consent.

CHARGES OF MISCONDUCT

Respondent was charged with violating the following Rules of Professional Conduct in VSB Docket Nos. 05-090-2990 and 3184:

RULE 1.2 Scope of Representation

- (a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

RULE 1.4 Communication

- (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.

RULE 1.15 Safekeeping Property

- (c) A lawyer shall:
 - (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer which such person is entitled to receive.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law.

No evidence was offered on behalf of the Respondent in defense of any of the factual allegations presented in the above-stated cases numbered 05-090-2261, 05-090-2478, 05-090-2629, 05-090-2942, 05-090-2990 or 05-090-3184. Accordingly, The Board accepted the *Findings of Fact* presented in the Ninth District Committee's certification as proven.

DISPOSITION

Thereafter, the Board once again recessed to deliberate what sanction to impose upon its finding of misconduct by Respondent in each of the referenced cases. After due deliberation, the Board reconvened to announce the sanction imposed. The Chair announced the sanction rendered in each of the above-referenced cases as being an immediate REVOCATION of the Respondent's license.

Accordingly, it is ORDERED that the license of the Respondent, Jimmie Ray Lawson, II, be, and hereby is, REVOKED, said revocation to take effect immediately.

It is further ORDERED that Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation 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 Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60

days of the effective day of the Revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to respondent at his address of record with the Virginia State Bar, being 2712 Virginia Avenue, P.O. Box 478, Collinsville, Virginia, 24078, by certified mail, return receipt requested, and by regular mail to Kathryn R. Montgomery, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED the 2nd day of August, 2005
VIRGINIA STATE BAR DISCIPLINARY BOARD



Karen A. Gould, Chair