

**VIRGINIA :**

**IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA**

**VIRGINIA STATE BAR, *ex rel.*  
FOURTH DISTRICT- SECTION II COMMITTEE,**

Complainant/Petitioner,

v.

**CHRISTOPHER HUNTER LYNT, ESQ,**

Respondent.

Chancery No. CH04001593

**FINAL ORDER OF SUSPENSION**

ON THE 10<sup>th</sup> day of September, 2004, this matter came before the Three-Judge Court empaneled on the 11<sup>th</sup> day of August, 2004, by designation of the Chief Justice of the Supreme Court of Virginia, pursuant to §54.1-3935 of the 1950 Code of Virginia, as amended, consisting of the Honorable James E. Kulp and the Honorable J. Howe Brown, Jr., retired Judges of the Fourteenth and Nineteenth Judicial Circuits, respectively, and by the Honorable James W. Haley, Jr., Judge of the Fifteenth Judicial Circuit and Chief Judge of the Three-Judge Court.

Seth M. Guggenheim, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar, and Daniel L. Hawes, Esquire, appeared on behalf of Respondent, Christopher Hunter Lynt, who was also present during the proceedings. At the conclusion of opening statements, Mr. Hawes withdrew as counsel for the Respondent, with Respondent's concurrence and the permission of the Three-Judge Court. Thereafter, the Respondent proceeded, *pro se*.

WHEREUPON, a hearing was conducted upon the Rule to Show Cause issued against the Respondent, Christopher Hunter Lynt, which Rule directed him to appear and to show cause

why his license to practice law in the Commonwealth of Virginia should not be revoked or suspended by reason of allegations of ethical misconduct set forth in the Certification issued by a subcommittee of the Fourth District—Section II Committee of the Virginia State Bar.

FOLLOWING the presentation of the Virginia State Bar's testimonial and documentary evidence in open court, the Respondent moved to strike such evidence, and tendered a Memorandum to the Three-Judge Court in support thereof. The Court denied the Respondent's said motion, and the Respondent presented his evidence.

AT THE CONCLUSION of the presentation of all evidence related to Respondent's alleged misconduct, the Three-Judge Court retired to deliberate, and thereafter returned and announced that it had found, unanimously, and by clear and convincing evidence, the following:

1. At all times relevant to the matters set forth herein, Christopher Hunter Lynt, Esquire (hereafter "Respondent"), was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent represented a German inventor, Raymund Eisele, who was also the chairman of a German joint stock company known as SmartDiskette GmbH.
3. In 1995, the Respondent incorporated his own ideas into a patent application that he was preparing on behalf of his client. The application pertained to a hand-held device which communicated with a "smart" diskette, which is a form of floppy disk with built-in electronics. As will be more fully set forth below, the Respondent's own ideas, incorporated by him in his client's patent application, would subsequently be claimed by the Respondent to be his own patentable "invention." The essence of the alleged invention was the attachment of an electronic camera to the hand-held device and the creation of a process whereby images could

be transferred from an electronic camera to a personal computer using a smart disk.

4. The patent application, a product, in part, of confidences and secrets communicated by and on behalf of the client to the Respondent, was approved by the client and filed in 1995. It did not name the Respondent as an inventor or co-inventor, and the Respondent did not at that time indicate in any manner whatsoever to the client that he, the Respondent, believed himself to be an inventor or co-inventor entitled to any proprietary interest of any nature regarding the subject matter of the patent application. The Respondent subsequently prepared a second, related, patent application, which was filed on June 2, 1997.

5. In approximately mid-1997, the client's German firm was acquired by another company, and ultimately a corporation known as SmartDisk Corporation (hereafter "Complainant") was formed. As of the time of filing of the federal lawsuit mentioned below, SmartDiskette GmbH was a wholly owned subsidiary of SmartDiskette Limited, a company formed under the laws of the United Kingdom, which, in turn, was a wholly owned subsidiary of the Complainant.

6. In approximately late 1998, the Respondent personally participated in the prosecution of the second application, to which claims were added embodying his alleged idea, but the Respondent made no claim at the time to his client or to the U. S. Patent and Trademark Office that he was an inventor or co-inventor.

7. As part of an effort to consolidate patent work in a single law firm, the Respondent's client, Mr. Eisele, discharged the Respondent as his patent attorney in May of 1999. The Respondent transferred the client files to the Complainant's patent attorneys, and retained copies of certain file materials so as to aid Complainant's patent attorneys if and when

necessary.

8. Thereafter, in the course of corresponding with Complainant's patent attorneys, the Respondent, for the first time, declared himself the originator of the camera idea contained in the 1995 and 1997 patent applications, and suggested that he, the Respondent, be added as an inventor in the pertinent filings in the United States Patent and Trademark Office.

9. The Respondent filed a patent application on June 4, 1999, naming himself as a co-inventor with Raymund Eisele and Axel Burkart. The application was accompanied by a transmittal letter stating that "A Declaration signed by the inventor(s) and the filing fee will be submitted in due course"; and requested that "all communications" be addressed to the Respondent. Furthermore, a cover sheet to the application contained a section heading "ATTORNEYS AND CORRESPONDENCE ADDRESS:" below which was listed the Respondent's name, home address, and telephone number. At the time he filed the June 4, 1999, patent application, the Respondent was not, in fact, Raymund Eisele's and/or Axel Burkart's attorney, nor had he consulted with them respecting the application prior to its having been filed, nor had he secured their permission to represent that they, or either of them, would be signing a "Declaration."

10. The June 4, 1999, patent application expressly stated therein, as follows: "This application claims the benefit of priority of co-pending applications 08/514,382, filed August 11, 1995, and 08/867,496, filed June 2, 1997." The said "co-pending applications" were, in fact, the 1995 and 1997 applications referred to elsewhere herein, which were prepared, in whole or in part, by the Respondent on behalf of his client during the course of his representation of the client, using information supplied to the Respondent in confidence by and

on behalf of the client.

11. After learning from Respondent that the June 4, 1999, patent application had been filed, Raymund Eisele, the Respondent's former client, requested that Respondent assign any rights Respondent might have in the said patent application to the Complainant. During the course of e-mail exchanges between the Respondent and his former client, the Respondent indicated, among other things, that there were legal and ethical issues that needed to be researched in connection with the requested assignment and Respondent's own interests in the application in question.

12. The Respondent ultimately responded to his client's and the Complainant's repeated demands that Respondent assign his rights to the Complainant, including their threat of a federal lawsuit, by demanding, through his counsel, payment of the sum of \$2,600,000.00, plus royalties of 10% from August 4, 1999, in exchange for the assignment demanded by Respondent's former client and the Complainant.

13. On August 4, 1999, Respondent's former client, Raymund Eisele, together with Complainant and SmartDiskette GmbH, filed suit against the Respondent in the United States District Court for the Eastern District of Virginia. As of October 1, 1999, a settlement was reached between the parties which included, *inter alia*, Complainant's payment to Respondent in the sum of \$30,000.00 in exchange for the assignment that had been requested of him. The Complainant's decision to settle the matter and to tender the said payment to the Respondent was made for business reasons.

THE THREE-JUDGE COURT thereupon stated its unanimous finding that the Virginia State Bar had proven, by clear and convincing evidence, that the Respondent had violated the

following provisions of the revised Virginia Code of Professional Responsibility:

**DR 4-101. Preservation of Confidences and Secrets of a Client.**

- (A) "Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.
- (B) Except as provided by DR 4-101(C) and (D), a lawyer shall not knowingly:
  - (2) Use a confidence or secret of his client to the disadvantage of the client.
  - (3) Use a confidence or secret of his client for the advantage of himself or a third person, unless the client consents after full disclosure.

The Three-Judge Court further ruled, unanimously, that the Virginia State Bar had failed to prove, by clear and convincing evidence, that Respondent had violated those provisions of DR 5-101 and DR 5-104 as set forth in the aforesaid Certification.

THEREAFTER, the Virginia State Bar and the Respondent presented argument regarding the sanction to be imposed upon the Respondent for the ethical misconduct found by the Three-Judge Court. The members of the Three-Judge Court retired to deliberate, and thereafter returned and announced the decision that Respondent's license to practice law in the Commonwealth of Virginia should be suspended for a period of two (2) years, effective September 10, 2004.

AT THE CONCLUSION of the proceedings on the 10<sup>th</sup> day of September, 2004, the Three-Judge Court entered a Summary Order suspending the Respondent's license to practice

law in the Commonwealth of Virginia, effective that date, and directing him to comply with the notice requirements contained in Part Six, Section IV, Paragraph 13.M. of the Rules of the Supreme Court of Virginia; accordingly, it is, therefore

ORDERED, that Respondent's license to practice law in the Commonwealth of Virginia be, and the same hereby is, SUSPENDED for a period of two (2) years, effective September 10, 2004; and it is further

ORDERED, that pursuant to the provisions of Part Six, Section IV, Paragraph 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 suspension 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 client. The Respondent shall give such notice within fourteen (14) days of the effective date of the Summary Order, and make such arrangements as are required herein within forty-five (45) days of the effective date of the Summary Order. The Respondent shall furnish proof to the bar within sixty (60) days of the effective date of the Summary Order that such notices have been timely given and such arrangements for the disposition of matters made. Issues concerning the adequacy of the notice and arrangements required herein shall be determined by the Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with the requirements of this paragraph; and 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 costs; and it is further

ORDERED that four (4) copies of this Order be certified by the Clerk of the Circuit Court of the City of Alexandria, Virginia, and be thereafter mailed by said Clerk to the Clerk of the Disciplinary System of the Virginia State Bar at 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800, for further service upon the Respondent and Bar Counsel consistent with the rules and procedures governing the Virginia State Bar Disciplinary System.

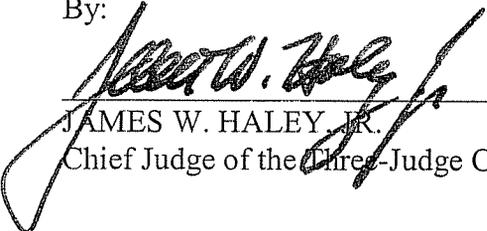
THIS ORDER IS EFFECTIVE *NUNC PRO TUNC* SEPTEMBER 10, 2004.

AND THIS ORDER IS FINAL.

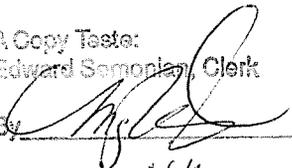
Entered this 15<sup>th</sup> day of September, 2004.

FOR THE THREE-JUDGE COURT:

By:

  
\_\_\_\_\_  
JAMES W. HALEY, JR.  
Chief Judge of the Three-Judge Court

A Copy Teste:  
Edward Semonian, Clerk

By:  Deputy Clerk

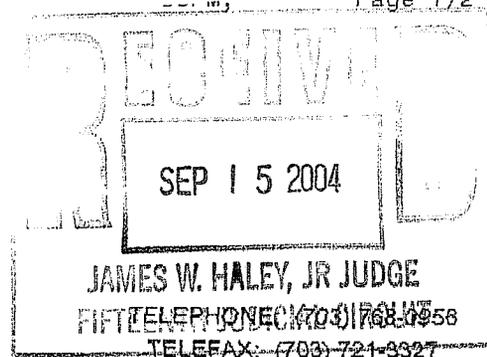
Certified this 24<sup>th</sup> day of Sept 2004

*Respondent's exceptions to the panel's order are attached as Exhibit A.*

*J. W. Haley, Jr.*

*Exhibit A  
Sept*

CHRISTOPHER H. LYNT



Virginia State Bar No. 31047  
PATENT REGISTRATION NUMBER 33,619

7502 Toll Court  
Alexandria, VA 22306  
United States of America

September 15, 2004

The Honorable James W. Haley, Jr., Judge  
Fifteenth Judicial Circuit  
Stafford Circuit Court  
P.O. Box 69  
1300 Courthouse Road  
Stafford, VA 22555-0069

FAX: 540-658-4037 (2 pages)

RE: CH 04 001593 (VSB Docket #00-042-2093)

Dear Judge Haley:

I am forwarding my objections to Bar Counsel's Proposed Final Order of Suspension. I received the Proposed Order today and have already sent these objections to Bar Counsel. However, he kindly informed me that I needed to file my objections with you. I will send him a copy of this letter as well.

Therefore, I hereby object to the proposed order, for the following reasons:

1) The court did not adopt the final sentence of paragraph 8 of the Committee Certification. However, (a) the pertinent facts were never contested by Respondent, (b) Respondent testified to that effect at the hearing, and (c) there was no clear and convincing evidence to the contrary: My recollection of the testimony of the Bar's witness, Mr. Nusbaum, is that he only testified that he did not recall that part of the conversation.

Since the pertaining facts were testified to by the Respondent and are not in dispute, they should be included in the Final Order.

2) The court did not adopt the paragraph 9 of the Committee Certification. However, (a) the pertinent facts were never contested by Respondent, (b) Respondent testified to that effect at the hearing, and (c) there was no clear and convincing evidence to

the contrary: My recollection of the testimony of the Bar's witness, Mr. Nusbaum, is that he only testified that he did not recall that part of the conversation.

Since the pertaining facts were testified to by the Respondent and were not in dispute, they should be included in the Final Order.

3) The court did not adopt paragraph 10 of the Committee Certification. However, (a) the pertinent facts were never contested by Respondent, (b) Respondent testified to that effect at the hearing, and (c) there was no clear and convincing evidence to the contrary: The Bar's documentary evidence supported the pertaining facts, which documentary evidence was admitted over Respondent's objection.

Since the pertaining facts were testified to by the Respondent, were supported by the Bar's evidence, and were not in dispute, they should be included in the Final Order.

Please note my objections. If it is possible, could you please see that the other members of the court are made aware of my objections before the order is entered. Thank you.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'C. Lynt', with a long horizontal flourish extending to the right.

Christopher H. Lynt