



VIRGINIA:

BEFORE THE FOURTH DISTRICT SECTION II COMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
CRAIG EDWARD BAUMANN

VSB Docket No. 18-042-110663

DISTRICT COMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On November 14, 2019, a hearing in this matter was held before a duly convened Fourth District Section II Committee panel consisting of Joseph D. King, Esquire, Kenneth E. Labowitz, Esquire, Kiersten L. Jensen, Esquire, Natalie T. Page, Esquire, Marian Wiggins, Lay Member, Jeanne M. O'Leary, Lay Member, and Sean McDonough, Esquire, presiding.

Respondent Craig Edward Baumann appeared in person with his counsel, Bernard J. DiMuro, Esquire. Kathleen M. Uston, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar. The proceedings were transcribed by Carol Neeley, Rudiger, Green & Kerns Court Reporting Service.

Prior to the presentation of evidence in the matter, the parties announced that they had reached an agreement as to the appropriate disposition of the case and wished to resolve this matter by way of an Agreed Disposition. The parties then stipulated as to the underlying facts of the case, which facts were read into the record by Ms. Uston. The parties next stipulated as to the Rules of Professional Conduct which were violated by Respondent herein and proven by clear and convincing evidence. The parties then presented argument as to an appropriate sanction and the District Committee retired to deliberate. Following its deliberations, the District Committee determined that a Public Reprimand with Terms should be imposed.

Therefore, pursuant to Part 6, Section IV, Paragraph 13-16.Z(2) of the Rules of the Virginia Supreme Court, and following the parties' agreement as read into the record, the Fourth District

Section II Committee of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand with Terms:

I. STIPULATED FINDINGS OF FACT

1. At all times relevant hereto, Craig Edward Baumann ("Respondent") has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. This matter came to the attention of the VSB upon receipt of an Order and Memorandum Opinion entered by the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court Order") on August 31, 2017. The Bankruptcy Court Order sanctioned Respondent in the amount of \$4,319.19, plus attorney's fees and costs of \$17,921.25, and punitive damages in the amount of \$5,000.
3. Respondent has been licensed to practice law in Virginia for over forty (40) years and on his website advertises himself as "an experienced bankruptcy attorney."
4. On October 15, 2015, Respondent obtained a judgment from the Fairfax County General District Court (the "GDC") against his former tenant, Mr. Robert P. Banks, for unpaid rent in the amount of \$7,497.50, plus \$142.00 in costs, \$700.00 in attorney's fees, and interest.
5. On November 16, 2015, Respondent initiated collection proceedings against Mr. Banks by filing a Garnishment Summons with the GDC seeking to garnish Mr. Banks's wages from his employer, Beatty Management ("Beatty"). The case, #GV15019461-01 (the "First Garnishment"), was returnable to July 6, 2016 (the "return date").
6. On June 15, 2016, Mr. Bank's employer, Beatty Management ("Beatty"), filed a Garnishee's Answer with the General District Court ("GDC"), enclosing therewith a check in the amount of \$1,665.50. On the return date of the First Garnishment, the GDC ordered those funds paid over to Respondent.

7. On August 10, 2016, Respondent filed a second garnishment against Mr. Banks with Beatty in the GDC, case #GV15019461-02 (the "Second Garnishment").
8. On August 30, 2016, Mr. Banks filed a petition seeking bankruptcy protection under Chapter 7 of the Bankruptcy Code listing Respondent as an unsecured creditor on his bankruptcy schedules. On September 1, 2016, Mr. Banks's bankruptcy counsel, Thomas Andrews, Esquire, filed a "Suggestion of Bankruptcy" with the GDC, serving a copy of same upon Respondent. On September 2, 2016, the bankruptcy court sent an official Certificate of Notice of Mr. Banks's bankruptcy filing to all of Mr. Banks's creditors including Respondent.
9. On December 16, 2016, Mr. Banks received a discharge of his debts including Respondent's judgement which at that point totaled \$8,709.40 less the First Garnishment figure of \$1,667. On December 17, 2016, the bankruptcy court sent an official Certificate of Notice of Mr. Banks's discharge to all of Mr. Banks's creditors including Respondent.
10. Although Respondent claimed not to recall the date upon which he learned of Mr. Banks's bankruptcy filing, he does not deny that all notices referenced above were sent to his current mailing address. In addition, his receipt of notice of same not later than October 18, 2016, is not in dispute.
11. Respondent took no action to dismiss the Second Garnishment. Instead, Respondent claims that he mistakenly took further actions to collect upon his judgment after Mr. Banks' filed for bankruptcy protection, and after his discharge, in violation of federal bankruptcy law.
12. First, Respondent failed to remit \$500.00 in funds he had already collected from Beatty under the First Garnishment back to Mr. Banks. Mr. Banks was entitled to the \$500.00 since the return date on the First Garnishment fell within ninety (90) days of the date of

filing of Mr. Banks' bankruptcy petition. Respondent claims that he believed the \$500 was regarding the second garnishment and he had to wait for the checks to clear his attorney trust account.

13. Mr. Banks' bankruptcy counsel, Mr. Andrews, would testify that he requested that Respondent return the \$500 in exempted funds to Mr. Banks from the money that had been garnished in the first garnishment. Respondent agreed to do so (and claims that he mistakenly believed it was the second garnishment he was discussing with Andrews office staff which staff thought it was the first garnishment) and, in order to obtain the release of the exempted funds, prepared two (2) versions of an "Order of Payment" for Mr. Andrews's signature which Respondent intended to present to the GDC for entry. One version recited, "[T]he court having received one check for the garnished funds . . . the garnished funds are paid over to [Respondent.]" Respondent was then ordered to pay \$500.00 of those funds to Mr. Andrews. The second version required that \$500.00 of any funds then being held by Beatty be turned over to Mr. Banks' counsel, with any balance left ordered paid to Respondent. Respondent stated that he prepared two versions of the Order of Payment since he did not know if the court held any funds at that time. In response to Respondent's request that he do so, Mr. Andrews endorsed both orders and returned them to Respondent.
14. Both Orders of Payment were captioned with the case number of the First Garnishment, case #GV15019461-01. Mr. Baumann would testify that he believed the orders of payment providing for the return to Mr. Andrews of \$500.00 pertaining to the second garnishment. Mr. Baumann would further testify that the captioning of the Orders of Payment with the case number for the First Garnishment was in error.

15. On January 31, 2017, the return date of the Second Garnishment, the matter was taken up by the GDC and the presiding judge changed the case number on the first version of the Order of Payment from the First Garnishment (case #GV15019461-01) to the Second Garnishment (case #GV15019461-02). The judge also changed the number of checks listed as having been returned to the court by Beatty from one to four. This had the effect of rendering the Order of Payment inapplicable to the First Garnishment. Instead, the altered Order of Payment purported to deal with funds paid to the court pursuant to the Second Garnishment.
16. Respondent was not present in court on January 31, 2017 and was thus unaware of these alterations until he received a copy of the Order of Payment in the mail.
17. The GDC thereafter sent Respondent a copy of the altered Order of Payment along with four (4) checks totaling \$782.19. These funds had been withheld by Beatty from Mr. Banks's wages pursuant to the Second Garnishment.
18. After he received the four checks, Respondent failed to immediately return \$500.00 of these funds to Mr. Andrews on behalf of Mr. Banks. Instead, Respondent negotiated the checks and deposited the full amount of \$782.19 into his attorney trust account.
19. One of the four checks did not clear Mr. Baumann's account due to a stop payment. Thereafter, on February 15, 2017, Respondent sent an email to Beatty's representative, Mr. Jeff Bates, inquiring about the stop payment and asking to know when Beatty would make good on this check. Respondent advised Mr. Bates, "We need to determine when Beatty will make good on the amounts the court ordered paid by Beatty to avoid issuance of a Rule to Show Cause directed against Beatty."
20. This prompted Mr. Bates to email Respondent on February 16, 2017, promising to issue a replacement check. On February 14, 2017, Respondent again emailed Mr. Bates

inquiring about the replacement check. Beatty then withheld additional funds from Mr. Banks's post-petition wages, two (2) months after his bankruptcy discharge, and sent Respondent the replacement check. On March 6, 2017, Respondent emailed Mr. Bates confirming receipt of the replacement check asking, "Is this check good? (no stop payment placed on it) and am I free to deposit it?" Mr. Bates responded on March 13, 2017, advising that he had been in touch with Mr. Andrews and was told that there was "some issue" with this final payment.

21. These actions by Respondent violated federal bankruptcy laws.

## II. STIPULATED NATURE OF MISCONDUCT

The parties stipulate and agree that such conduct by Craig Edward Baumann constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### **RULE 1.15 Safekeeping Property**

(b) Specific Duties. 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 that such person is entitled to receive[.]

### **RULE 3.1 Meritorious Claims And Contentions**

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. \*\*\*\*

### **RULE 3.4 Fairness To Opposing Party And Counsel**

A lawyer shall not:

(j) File a suit . . . assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, it is the decision of the District Committee to offer Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for the disposition of a Public Reprimand with Terms of this complaint. The terms and conditions are:

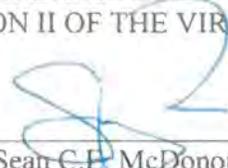
1. Within twelve (12) months of the date of this Determination, Respondent shall attend six (6) hours of live CLE on the topic of bankruptcy practice. Respondent shall not apply those hours towards his annual CLE requirement.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by the date(s) specified, the district committee shall certify the matter to the Virginia State Bar Disciplinary Board for sanction determination pursuant to Part Six, Section IV, Paragraph 13-16.CC of the Rules of the Supreme Court of Virginia. Any Proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed pursuant to Paragraph 13-9.E of the Rules of Court.

Pursuant to Part Six, Section IV, Paragraph 13-9.E of the Rules of the Virginia Supreme Court, the Clerk of the Disciplinary System shall assess costs.

FOURTH DISTRICT COMMITTEE  
SECTION II OF THE VIRGINIA STATE BAR

By \_\_\_\_\_

  
Sean C. McDonough  
District Committee Chair

CERTIFICATE OF SERVICE

I hereby certify that on the 18<sup>th</sup> day of February 2020, 2020, a true copy of the District Committee Determination (Public Reprimand with Terms) was sent by certified mail to Craig Edward Baumann, Respondent, at Craig E. Baumann, P.C., 8770 Richmond Highway, Alexandria, VA 22309-4204, Respondent's last address of record with the Virginia State Bar, and to Bernard J. DiMuro, Esquire, Respondent's Counsel, at 1101 King Street, Suite 610, Alexandria, Virginia 22314.

  
Kathleen M. Uston, Esquire  
Assistant Bar Counsel