

VIRGINIA:

BEFORE THE SIXTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF MICHAEL JAMES GEORGE, ESQUIRE
VSB Docket No. 03-060-0264

SUBCOMMITTEE DETERMINATION
PUBLIC ADMONITION WITH TERMS

On the 28th day of June, 2007, a meeting in this matter was held before a duly convened subcommittee of the Sixth District Committee consisting of Richard Henry Stuart, Esq., John E. Graham, and Jennifer Lee Parrish, Esq., presiding.

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

I. FINDINGS OF FACT

1. At all times relevant hereto the Respondent, Michael James George, Esquire, (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. The events which led to the bar complaint are related to a contentious divorce between the Respondent and his former wife. The Complainant in this matter was counsel for the Respondent's wife during the divorce proceeding.

3. On or about September 9, 2000 the Respondent and his wife were married in Stafford County, Virginia, after a brief courtship. Following the marriage, the wife began working in the Respondent's law office.

4. After she began working in his law office, the Respondent's wife opened a checking

account in her own name at Wachovia Bank. The Respondent did not have signatory authority on the wife's Wachovia Bank account.

5. At the time of the events in question, the Respondent's income was derived primarily from court appointed guardian *ad litem* fees which had been earned upon receipt. In addition he had a small number of retained clients.

6. On one or more occasions during the time the Respondent's wife worked at the Respondent's law office unearned fees were received from retained clients in the form of checks, and the Respondent's wife deposited them in her individual account at Wachovia Bank. The Respondent's wife abruptly terminated her employment at the Respondent's office and relocated to the state of California.

7. The Respondent stipulates that the deposit of unearned fees into his wife's account was a direct result of his failure to properly supervise an employee and was inconsistent with the Rules of Professional Conduct related to trust account practices. At no time, however, was the Respondent out of trust and there is no evidence that any client harm resulted from the practice described in paragraph six (6) *supra*.

II. NATURE OF MISCONDUCT

The Subcommittee finds that the following Rules of Professional Conduct have been violated:

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:

- (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.

RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- (a) a partner or a lawyer who individually or together with other lawyers possesses managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- (b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer is a partner or has managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows or should have known of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

III. PUBLIC ADMONITION WITH TERMS

Accordingly, it is the decision of the Subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which by the dates set forth below, shall be a predicate for the disposition of this complaint by imposition of a Public Admonition With Terms. The terms and conditions which shall be met are:

1. On or before December 31, 2007, the Respondent shall complete sixteen (16) hours

of continuing legal education credits by attending courses approved by the Virginia State Bar in the subject matter of ethics. The Respondent's Continuing Legal Education attendance obligation set forth in this paragraph *shall not* be applied toward his Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which the Respondent may be licensed to practice law. The Respondent shall certify his compliance with the terms set forth in this paragraph by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance Form (Form 2) to Marian L. Beckett, Assistant Bar Counsel, at 100 North Pitt Street, Suite 310, Alexandria, Virginia 22314, promptly following his attendance of each such CLE program(s).

2. For a period of one (1) year following the date of entry of this Order, the Respondent shall engage in no conduct which violates any provisions of Virginia Rules of Professional Conduct 1.15, and 5.3, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which the Respondent may be admitted to practice law. The terms contained in this Paragraph 2 shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against the Respondent by any disciplinary tribunal which contains a finding that Respondent has violated one or more provisions of the disciplinary rules referred to above; *provided, however*, that the conduct upon which such finding was based occurred within the one-year period referred to above, and provided, further, that such ruling has become final.

Upon satisfactory proof that the above noted terms and conditions have been complied with, in full, a PUBLIC ADMONITION WITH TERMS shall then be imposed, and this matter shall be closed. If, however, the Respondent fails to comply with any of the terms set forth herein, as and when the obligation with respect to any such Term has accrued, then, and in such event, the

alternative disposition of CERTIFICATION TO THE VIRGINIA STATE BAR DISCIPLINARY BOARD shall be imposed, upon an agreed stipulation of facts and misconduct as the facts and misconduct are set forth herein for the sole purpose of the imposition of a sanction deemed appropriate by the Virginia State Bar Disciplinary Board, pursuant to Part 6, § IV, ¶ 13(I)(2)(g) of the Rules of Virginia Supreme Court of Virginia.

IV. COSTS

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

SIXTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By _____
Jennifer Lee Parrish, Chair

CERTIFICATE OF SERVICE

I certify that I have this _____ day of _____, 2007, mailed a true and correct copy of the Subcommittee Determination (PUBLIC ADMONITION WITH TERMS) by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Respondent, Michael James George, Esquire, at 1204 Princess Anne Street, Fredericksburg, VA 22401, his last address of record with the Virginia State Bar, and a copy thereof by first class mail, postage prepaid, to David Ross Rosenfeld, Esquire, the Respondent's Counsel, at 118 S. Royal Street, Alexandria, VA 22314.

Marian L. Beckett
Assistant Bar Counsel