Disciplinary Actions

The following is a list of attorneys who have been publicly disciplined. The orders have been edited. Administrative language has been removed to make the opinions more readable.

Respondent's Name	Address of Record (City/County)	Action	Effective Date	Page
Circuit Court				
Walter Franklin Green, IV	Harrisonburg	Public Reprimand w/ Terms	September 19, 2000	
Disciplinary Board				
Karen Marie Aspirino	West Warwick,RI	Public Reprimand	June 29, 2000	
Thomas Eugene Burks	Manassas	Revocation	July 28,2000	
John E.Callaghan	Scotch Plains, NJ	Revocation	May 26,2000	
Donald Edward Earls	Norton	Revocation	May 12,2000	
John A. Field,III	McLean	Revocation	July 28,2000	
Sidney S. Kanter	Parsippany, NJ	2 Year Suspension	April 28,2000	
David Eugene Michael	Lorton	13 Month Suspension	August 10,2000	
Anne Musulin	Mechanicsville	4 Year Suspension w/Terms	June 13,2000	
Everett Michael Myers	Portsmouth	2 Year Suspension	February 18,2000	
Madeleine Marie Reberkenny	Alexandria	13 Month Suspension	May 26,2000	
Bradley Coblentz Snowden	Martinsburg,WV	3 Month Suspension w/Terms	July 28,2000	
Drew Virgil Tidwell	Amherst,NY	Revocation	August 25, 2000	
James Dudley Young	Fairfax	Public Reprimand	June 29, 2000	
District Committee				
Charles V. Bashara	Norfolk	Public Reprimand w/ Terms	September 11, 2000	
John George Crandley	Virginia Beach	Public Reprimand w/ Terms	August 7,2000	
William P. Robinson,Jr.	Norfolk	Public Reprimand	August 16, 2000	
Timothy Wade Roof	Norfolk	Public Reprimand w/ Terms	September 11, 2000	
Angela Dawn Whitley	Richmond	Public Reprimand	May 31,2000	

Surrenders with Disciplinary Charges Pending

The following is a list of attorneys who have surrendered their licenses with disciplinary charges pending.

Respondent's Name	Address of Record (City/County)	Jurisdiction	Effective Date
John William Acree	Virginia Beach	Disciplinary Board	August 29, 2000
Karen Marie Asprinio	West Warwick, NJ	Disciplinary Board	June 23,2000
Janice McPherson Doxey	Norfolk	Disciplinary Board	July 7,2000
Craig Burgett Dunbar	Alexandria	Disciplinary Board	September 22,2000
Francisco Alberto Laguna	Tucson,AZ	Disciplinary Board	July 26,2000
Darwyn H.Lesh	Georgetown,SC	Disciplinary Board	August 15, 2000
Jane Chase Neal	Stevensburg	Disciplinary Board	August 24, 2000
George Levin Smith,Jr.	Hampton	Disciplinary Board	June 28,2000

Circuit Court

IN THE CIRCUIT COURT
FOR ROCKINGHAM COUNTY

VIRGINIA STATE BAR, EX REL.
SEVENTH DISTRICT COMMITTEE
Complainant/Petitioner
v.
WALTER FRANKLIN GREEN, IV
Respondent
Chancery No. CH 00-17912
{VSB Docket No. 97-070-1467}
{VSB Docket No. 98-070-1481}

ORDER

The matter came before the Three-Judge Court empaneled on June 29, 2000, 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. A fully endorsed Agreed Disposition, dated the 11th day of September, 2000, was tendered by the parties, and was considered by the Three-Judge Court, consisting of the Honorable Barnard F. Jennings and Kenneth E. Trabue, retired Judges of the Nineteenth and Twenty-Third Judicial Circuits, respectively, and by the Honorable J. Samuel Johnston, Judge of the Twenty-Fourth Judicial Circuit and Chief Judge of the Three-Judge Court.

Having considered the Agreed Disposition, it is the decision of the Three-Judge Court that the Agreed Disposition be accepted, and said Court finds by clear and convincing evidence as follows:

As to VSB Docket No. 97-070-1467:

1. At all times relevant hereto, Walter Franklin Green, IV, Esquire (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. In August of 1991, the Complainant, Ward E. Mohler, was convicted in the U.S. District Court of the Western District of Virginia of conspiracy to deal in narcotics while in possession of a firearm. On October 18, 1995, the Complainant's father hired the Respondent to file a Petition for a Writ of Habeas Corpus on behalf of the Complainant and paid the Respondent $2,000.00.

3. During the months after his having hired the Respondent, the Complainant attempted numerous times to get in touch with the Respondent, but the Respondent would not return his phone calls and did not respond to his letters. The Complainant's sister and brother also had a difficult time getting in touch with the Respondent. When they did, the Respondent informed them that the law had recently changed and that he needed to attend a seminar to learn more about the changes before he could file anything on their brother's behalf. He also informed them that he was very busy with a high-profile murder case.

4. On March 13, 1997, the Respondent filed a Petition to Vacate Sentence, instead of the Petition for a Writ of Habeas Corpus which the Complainant had requested. On March 17, 1997, the Court dismissed the petition without prejudice.

As to VSB Docket No. 98-070-1481:

1. At all times relevant hereto, Walter Franklin Green, IV, Esquire (hereinafter the Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. In or around April, 1996, Danny L. Rothwell hired the Respondent to represent his daughter, Jennifer Rothwell, on an appeal of an Order of the Juvenile and Domestic Relations District Court of Rockingham County, respecting custody and visitation of Ms. Rothwell's and one Mr. Kubin's minor child, Anthony.

3. A hearing took place in Circuit Court on January 29, 1997, on Ms. Rothwell's Motion that visitation be terminated. At the conclusion of the hearing, the judge ruled from the bench in the presence of the parties, stating that his written Order would contain regarding, among other things, visitation rights of the father and paternal grandmother. The judge entered such Order, prepared by the guardian *ad litem*, on February 3, 1997.

4. Jennifer Rothwell never received a copy of the judge's written Order from the Respondent, despite Respondent's having been mailed a draft thereof from the guardian *ad litem*'s secretary on February 2, 1997, and the paternal grandmother's having hand-delivered a copy of the Order, as entered, to Respondent's office on February 6, 1997.

5. Respondent did not return Ms. Rothwell's many phone calls concerning the Order over a period of weeks following the Court hearing, and Respondent afforded her no opportunity to obtain his advice and counsel respecting the existence of the Order and the conduct required of Ms. Rothwell in order to be in compliance therewith.

6. When Anthony's father and paternal grandmother requested visitation with child according to the Order, Ms. Rothwell and her father refused to turn the child over to them, stating that they had not seen the Court's Order.

7. On March 11, 1997, a Show Cause Summons was issued against Jennifer and Danny Rothwell, commanding them to appear before the Court on March 11, 1997, to show cause why they should not be held in contempt for failing to abide by the terms of the February 3, 1997, Order. Following a hearing on the Show Cause Summons, sole custody of the minor child was awarded to the father, with supervised visitation awarded to Jennifer Rothwell, the child's mother.

8. During an interview with the Virginia State Bar's investigator regarding this case, the Respondent stated that he had never received a copy of the judge's written Order. However, Dana J. Cornett, Esq., Anthony's guardian *ad litem* stated that her secretary had forwarded an unsigned copy of the Order to Respondent on February 2, 1997, and Janet Overzat, Anthony's paternal grandmother, informed the investigator that she had hand delivered a copy of the Order, obtained from the Court file, to Respondent's office on February 6, 1997.

THE THREE-JUDGE COURT finds by clear and convincing evidence that such conduct on the part of the Respondent, Walter Franklin Green, IV, Esquire, constitutes a violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 6-101. (A)(B)(C) and (D) * * *

UPON CONSIDERATION WHEREOF, the Three-Judge Court hereby ORDERS that the Respondent shall receive a **PUBLIC REPRIMAND WITH TERMS**, subject to the imposition of the sanction referred to below as an alternative disposition of this matter should Respondent fail to comply with the Terms referred to herein. The Terms which shall be met in accordance with the deadlines set forth below are:

1. Respondent shall pay by certified, cashier's, or treasurer's check, made payable in the principal sum of $2,000.00, with interest thereon at the rate of 9.0% per annum, from October 18, 1995, until paid. The payment that is due hereunder, inclusive of principal and all interest, shall be made by delivery of a check, as aforesaid, no later than October 25, 2000.

2. Respondent shall accrue at least four (4) ethics credit hours by enrolling in and attending Virginia State Bar approved Continuing Legal Education program(s) in ethics prior to June 30, 2001; Respondent's Continuing Legal Education attendance obligation set forth in this paragraph shall *not* be applied toward Respondent's Mandatory Continuing Legal Education requirement in Virginia and any other jurisdictions in which he may be licensed to practice law. 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 Seth M. Guggenheim, Assistant Bar Counsel, promptly following his attendance of such CLE program(s).

Upon satisfactory proof furnished by Respondent to the Virginia State Bar that the above Terms have been complied with, in full, a PUBLIC REPRIMAND WITH TERMS, shall then be imposed, and this matter shall be closed. If, however, Respondent fails to comply with any of the Terms set forth herein, as and when his obligation with respect to any such Term has accrued, then, and in such event, this Three-Judge Court shall, as an alternative disposition to a Public Reprimand with terms, suspend the Respondent's license to practice law in the Commonwealth of Virginia for a period of thirty (30) days.

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ENTERED this 19th day of September, 20000
FOR THE THREE-JUDGE COURT:
J. Samuel Johnston, Jr.
Chief Judge of Three-Judge Court

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Disciplinary Board

BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
KAREN MARIE ASPRINIO
VSB Docket No. 00-051-1129

ORDER

This matter came to be heard on June 23, 2000 on the Agreed Disposition of the Virginia State Bar and the Respondent based on the Certification of the Fifth District Subcommittee. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Dennis P. Gallagher, Robert C. Elliott, II, Esquire, Roscoe B. Stephenson, III, Esquire, Deborah A.J. Wilson, Esquire, and Carl A. Eason, Esquire, presiding.

Noel D. Sengel, Senior Assistant Bar Counsel, representing the Bar and the Respondent, Karen Marie Asprinio, appearing through counsel, Michael L. Rigsby, Esquire, presented an endorsed Agreed Disposition, dated June 23, 2000, reflecting the terms of the Agreed Disposition.

Having considered the Certification and the Agreed Disposition, it is the decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

1. At all times relevant hereto, the Respondent, Karen Marie Asprinio, has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. In February of 1999, Elizabeth J. Taylor, hereinafter the Complainant, hired the Respondent to file a Chapter 7 bankruptcy petition and asked that the Respondent reaffirm the Complainant's car loan.

3. The Respondent filed the petition in the United States Bankruptcy Court of the Western District of Virginia, Charlottesville Division, on March 8, 1999. The creditors' meeting was scheduled for April 12, 1999, but was continued to May 20, 1999. Approximately a week before the May 20, 1999 date, the Complainant received a letter from the Respondent stating the Respondent had moved out of state, but another attorney would appear at the meeting with the Complainant. Neither the Respondent nor any other attorney appeared at the Complainant's 341(a) meeting on May 20, 1999. The Complainant showed the Trustee the letter she had received from the Respondent and was allowed to proceed on her own.

4. The Complainant received a discharge in bankruptcy on June 2, 1999, but the Respondent had failed to take the necessary steps to reaffirm the Complainant's car loan.

5. The Complainant called the Respondent regarding the reaffirmation and the Respondent promised to cure the problem. The Respondent filed a motion to reopen the case, but failed to send the requisite filing fee and the motion was denied. Prior to this date, the court had stopped accepting checks from the Respondent because of the number of "insufficient funds" checks she had presented to the court. The Complainant's car was repossessed.

6. The Complainant then retained other counsel who corrected the situation with the Complainant's car. The Complainant attempted to get a refund of the fees and costs she paid to the Respondent, but was unable to do so until after complaints were filed with the Rhode Island and Virginia bars.

7. The Respondent has no prior disciplinary record, a mitigating factor recognized by the American Bar Association.

B. STIPULATION OF MISCONDUCT

The aforementioned conduct on the part of the Respondent constitutes a violation of the following Disciplinary Rule(s) of the Virginia Code of Professional Responsibility:

DR 1-102. (A)(3) and (4) * * *

DR 2-108. (D) * * *

DR 6-101. (A)(1) and (2) * * *

DR 6-101. (B), (C) and (D) * * *

DR 9-102. (A) (1) and (2) * * *

C. STIPULATION OF DISPOSITION

The Respondent shall receive a Public Reprimand as representing an appropriate sanction if this matter were to be heard.

Upon consideration whereof, it is ORDERED that Karen Marie Asprinio shall receive effective this date a Public Reprimand.

* * *

ENTER this Order this 29th day of June, 2000.
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A Eason, Chair

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
THOMAS EUGENE BURKS
VSB Docket Nos. 00-053-3085
00-053-3086
01-053-0003

OPINION AND ORDER

These matters came on for hearing, upon due notice to the Respondent, Thomas Eugene Burks, (hereinafter "Burks"), on the Petition for Expedited Hearing and Summary Suspension filed by the Virginia State Bar (hereinafter the "Bar"), consisting of Chester J. Cahoon, Jr., Bruce T. Clark, Dennis P. Gallagher, Michael A. Glasser, and John A. Dezio, Second Vice-Chair of the Board, who presided.

* * *

Neither Mr. Burks nor anyone on his behalf filed any responsive pleadings or appeared at the Hearing. The Bar appeared through Senior Assistant Bar Counsel Noel Sengel and introduced 10 exhibits during its case in chief, and also presented evidence through State Bar Investigator R. Kenneth Smith in support of the alleged disciplinary rule violations by Mr. Burks.

From the pleadings and evidenced adduced at the hearing, the Board finds, by clear and convincing evidence that:

1. Thomas G. Burks, Esquire, was licensed to practice law in the Commonwealth of Virginia on October 5, 1982, and, as of the date of the filing of the Petition, is currently licensed to practice law in the Commonwealth of Virginia.

2. On May 19, 2000, upon petition of Bar Counsel, the Circuit Court of Prince William County appointed a receiver pursuant to Virginia Code §54.1-3936 (A) and (B) for the Respondent's law practice.

3. On the morning of May 19, 2000, after appointment of the receiver, Bar Investigator R. Kenneth Smith and Senior Assistant Bar Counsel Noel D. Sengel went to the Respondent's law office located at 9300 Peabody Street, Suite 2008, Manassas, Virginia 20110-2538. When Mr. Smith and Ms. Sengel arrived, two young men were removing client files, furniture and computer equipment from the Respondent's office and placing it in two cars. The young men, who claimed they were former part-time employees of the Respondent, stated that had been contacted by the Respondent the previous evening and asked to remove certain items and take them to the Respondent's home.

4. The young men were shown the court order and asked to move all of the items in the two cars back into the Respondent's law office. They did so. One of the young men noted that he had been at the Respondent's home before coming to the office and had been told by the Respondent that the Respondent had moved at least one of the office computers and some other client files from the office and put them in his home the previous evening. Senior Assistant Bar Counsel Sengel asked the young man to go back to the Respondent's home and get the computer and client files and bring that back to the law office. The young man left and returned later and informed Senior Assistant Bar Counsel Sengel that he had spoken with the Respondent and explained the situation to the Respondent, but the Respondent would not return the computer and client files.

5. Immediately after the items were brought back into the office, two Bar investigators and Senior Assistant Bar Counsel Sengel boxed up what appeared to be all open client files in the office and all financial data readily identifiable and brought it back to the Northern Virginia office of the Virginia State Bar for safe keeping. The landlord had a writ of possession for the Respondent's office and changed the locks on the Respondent's office that afternoon at the Bar's request.

6. On Tuesday, May 23, 2000, the receiver, Richard S. Mendelson, and Bar Investigator R. Kenneth Smith went to the Respondent's law office to inventory the remaining property in the office left there by the Bar the previous Friday. When they arrived, they observed that someone had broken into the office and removed all valuable property, including computer equipment, fax machines, copying machines, televisions, antique clocks and office furniture. An attorney in an adjacent office, who knew the Respondent, informed the Bar that he had seen the Respondent in the office after Friday, May 19, 2000, removing the missing items. The attorney did not know a Receiver had been appointed at the time he saw the Respondent, and only called the Bar when he read about the appointment of the Receiver in the newspaper.

7. Various attorneys who knew the Respondent were interviewed, and it was learned the Respondent had a gun

collection, had been known to use cocaine and had been a suspect in the destruction of a former girlfriend's car. It was decided that the Receiver would not approach the Respondent to obtain the missing property. Instead, the state police, who were also involved in the investigation of wrong-doing by the Respondent, were asked to obtain a search warrant and did so.

8. After the appointment of the Receiver, an inventory was made of what appeared to be open client files seized from the Respondent's office on May 19, 2000. To date, the Bar and Receiver have not been able to determine the full extent of the Respondent's theft of client funds because of the number of cases to be reviewed. However, of the cases investigated so far, the Bar has determined that the Respondent has stolen client funds in the following cases:

VSB Docket No. 01-053-0003

9. On December 8, 1996, Gregory A. Cook and Jennifer L. Cook, husband and wife, were involved in an automobile accident in Raleigh County, West Virginia. Both were injured, but Ms. Cook sustained the more serious injuries. On January 16, 1997, they hired the Respondent to represent them in the matter. Local counsel was hired in West Virginia.

10. Suit was filed in West Virginia by local counsel and the Respondent reached a settlement with the defendant's insurer without the Cook's knowledge. The settlement was for $100,000.00, the defendant's policy limits. As soon as the settlement was agreed upon, the Respondent sent West Virginia counsel a letter allegedly signed by both Cooks terminating West Virginia counsel's services. Shortly thereafter, in April of 1999, West Virginia counsel filed notice of the attorney's lien with the court in West Virginia where the suit was pending.

11. The West Virginia court granted West Virginia counsel's lien for fees, and appointed a special commissioner to disburse the settlement funds. The special commissioner was ordered to pay local counsel's fees, certain medical liens, and to disburse $67,771.37 to the Respondent and Ms. Cook. Because it had been informed that the Respondent would be in town on November 23, 1999, the court further ordered that the General Receiver of the Circuit Court of Raleigh County, West Virginia, pay that sum over to the Respondent on November 23, 1999 in person. The General Receiver did so on November 23, 1999.

12. The Respondent never informed the Cooks that Ms. Cook's case had settled nor did he pay over any settlement proceeds to them. On November 24, 1999, the Respondent endorsed a check and deposited it in his attorney trust account with WACHOVIA, IOLTA Account #07911268501. The Respondent's trust account had a closing balance of approximately $2,765.68 at the time the receiver was appointed.

VSB Docket No. 00-053-3085 and 00-053-3086

13. On August 15, 1998, Tiffanie Kimack was involved in an automobile accident and suffered personal injuries. On August 18, 1998, Ms. Kimack hired the Respondent to represent her in the matter. Ms. Kimack's claim was settled and on November 12, 1999, Allstate issued a check to Ms. Kimack and the Respondent for $14,984.00. On November 18, 1999, the check was deposited into the Respondent's attorney trust account with WACHOVIA, IOLTA Account #07911268501.

14. On December 12, 1999, Ms. Kimack signed a settlement statement prepared by the Respondent's office which showed medical bills in the amount of $921.03 were to be paid by the Respondent from the proceeds of settlement. The Respondent has not paid Ms. Kimack's medical bills as stated on the settlement sheet, nor has he paid the money for the medical providers over to Ms. Kimack. The Respondent has not responded to Ms. Kimack's and her doctor's numerous attempts to get in touch with him about the matter.

15. The Respondent's trust account had a closing balance of approximately $2,765.68 at the time receiver was appointed. Considering the number of claims against that amount and their priority in time, the Respondent does not have the funds in his trust account with which to pay Ms. Kimack's medical providers.

16. Ms. Kimack's doctor, Dr. Breen, was contacted during the course of this investigation, and provided the receiver with a list of his patients whose personal injury cases had been handled by the Respondent and settled, with no payment to Dr. Breen. Dr. Breen made repeated calls to the Respondent's office regarding these unpaid bills after being informed by his patients that the cases had settled. Dr. Breen's office received no response.

After hearing the evidence, the Board retired to deliberate.

Based on these findings, the Board determined that Mr. Burks has engaged in a pattern of deceit and theft, neglect and abandonment, and failure to communicate which patterns include the violations of the following disciplinary rules of the Virginia Code of Professional Responsibility and Rules of Professional Conduct: DR 1-102 (A)(3) and (4); DR 6-101 (C) and (D); DR 9-102 (A) and (B); Rule 1.4 (a), (b) and (c); Rule 1.15 (a) and (c); and Rule 8.4 (b) and (c).

The Board then heard any evidence in mitigation or aggravation prior to determining the appropriate sanction. There was no mitigating evidence presented. The Bar introduced Exhibit 11 which was received as evidence of a prior disciplinary record involving Mr. Burks including the imposition of a public reprimand.

The Board then retired once again to deliberate on the proper sanction. The Board then returned again and

announced its unanimous decision that Mr. Burks' license to practice law in the Commonwealth of Virginia is revoked effective July 28, 2000.
* * *

ENTER this Order this 31st day of August, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
John A. Dezio, Second Vice Chair

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
DONALD EDWARD EARLS
VSB Docket No. 98-102-1533

ORDER AND OPINION OF REVOCATION

THIS MATTER came to be heard on April 28, 2000, in the matter of Donald Edward Earls, VSB Docket No. 98-102-1533, before a panel of the Virginia State Bar Disciplinary Board consisting of Henry P. Custis, Jr., First Vice Chair, presiding, Richard J. Colten, Eric N. Davidson, Karen A. Gould, and Deborah A.J. Wilson. The Respondent, Donald Edward Earls, appeared in person and was represented by his attorney, Terry G. Kilgore, throughout this hearing. Richard E. Slaney, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar. This matter came before the Board upon direct Certification by the Tenth District, Section II Subcommittee of the Virginia State Bar. The matter was certified on December 20, 1999, after a duly convened meeting before the Subcommittee on October 4, 1999.

Having considered the direct Certification, the evidence and exhibits presented, the Disciplinary Rules, argument of counsel, and other relevant matters, the Board makes the following determination:

FINDING OF FACT

1. At all times relevant hereto, the Respondent, Donald Edward Earls ("Earls"), was an attorney licensed to practice law in the Commonwealth of Virginia.

2. In February of 1993, the Complainants, Bonnie B. Franks ("Ms. Franks") and Harvey H. Franks ("Mr. Franks") (collectively "the Franks"), were injured in an automobile accident with one Ronald Clopper ("Clopper"), who was driving a truck owned by Ryder Rental, Inc. ("Ryder") and leased from Ryder by J&D Kitchens ("Kitchens"). The collision caused total-loss property damage to the Franks' vehicle and personal injury to both Mr. and Ms. Franks. Ms. Franks was the more seriously injured of the two, having sustained at least a compression fracture of her spine and was incapacitated for a significant period of time. Mr. Franks sustained at least one broken rib along with other miscellaneous injuries.

3. In March of 1993, the Franks retained Earls to represent them in regard to both the property damage and the injuries sustained in the automobile accident.

4. On October 7, 1993, Earls wrote a letter to Ron Cooper, an adjuster with Gay & Taylor, who represented the insurance carrier. The letter, *inter alia*, offered to settle Mr. Franks' personal injury claim for $12,000 and offered to settle Ms. Franks' personal injury claim for $30,000. A carbon copy of the letter was simultaneously sent to the Franks.

5. Prior to sending the October 7, 1993, letter, Earls did not discuss the settlement offers made in the letter with the Franks, and the Franks had not given authority to Earls to make any settlement offer at all. Additionally, Earls did not communicate with Ms. Franks' treating physician, Andrea Wynn, M.D., prior to sending the settlement letter, even though he acknowledges that Ms. Franks was still undergoing treatment for injuries sustained in the collision.

6. Upon receipt of the copy of the settlement letter, the Franks immediately contacted Earls and advised him that they had not given Earls authority to settle their case. On October 25, 1993, Earls wrote a letter to Cooper advising him, "Please disregard my letter of October 7, 1993."

7. Regarding the property damage aspect of this matter, in mid-1994, Earls filed suit on behalf of the Franks against Clopper for only the property damage done to the vehicle owned and operated by the Franks. On June 20, 1994, Earls settled the property damage claim for $9,000.

8. On July 5, 1994, a dismissal order, a release and check for $9,000 were sent to Earls, who failed to respond to the letter with the attached dismissal order, release and check. During the months of August 1994 and September 1994, additional requests were made by counsel for the insurance carrier regarding the return of the dismissal order and release.

9. On September 4, 1994, the Franks traveled approximately five hours by automobile to Earls' office to inquire regarding the status of their case. Earls and the Franks were surprised when the property damage settlement check was found in the file. Until this point, neither the Franks nor Earls were aware that a check had been issued and was being held by Earls at his office. During this period of time, the Franks were paying interest on a loan for a new car they had purchased to replace the vehicle that had been totaled in February 1993.

10. The Franks were in need of the $9,000 settlement check and were deprived of the use of the funds resulting from Earls' neglect to inform them of its arrival in his office. The settlement check was neither deposited to an appropriate trust account nor held in a secure fashion.

11. Regarding the personal injury claim, Earls made no contact with, nor requested documents from, Dr. Wynn, Ms. Franks' treating physician. Dr. Wynn, through affidavit

admitted into evidence without objection, stated, "Mr. Earls never communicated with me or my office at all regarding the condition or treatment of Mr. and Mrs. Franks. He never wrote my office or spoke with me and there are no releases or requests for medical bills or records (or any other correspondence) from Mr. Earls contained in my files regarding Mr. and Mrs. Franks."

12. On or about February 2, 1995, after repeated inquiries, Earls filed suits on behalf of the Franks against Clopper and Ryder in the Circuit Court of Clarke County. In regard to service on Clopper, Earls indicated in his cover letter to the Clerk of the Circuit Court of Clarke County that affidavits for service of process on Clopper through the Secretary of the Commonwealth were enclosed. Clopper was a resident of Maryland. Although Earls had been informed on at least five occasions by counsel representing Ryder that there was ineffective service on Clopper, it was not until April 1996 that Earls checked with the Secretary of the Commonwealth regarding service on Clopper. On April 19, 1996, Donna Sowder, Deputy Clerk of the Circuit Court of Clarke County, wrote Earls, indicating there had been no return of service from the Secretary and that although his cover letter in February 1995 referenced affidavits for service of process by the Secretary, no such affidavit was enclosed with either suit.

13. Earls eventually obtained service of process on Clopper through the Secretary, effective July 8, 1996, more than one year after the filing of the civil action and approximately 3-1/2 years after the accident. Kitchens was never named as a defendant in the civil action, and the statute of limitations ran as to that entity. Ryder was an improper defendant, and notwithstanding having been advised of that on numerous occasions, Earls failed to take action to dismiss Ryder and cause a timely suit against Kitchens, the proper co-defendant.

14. In 1997, the Franks discharged Earls and retained Anthony Collins to represent them in the then pending personal injury action. Collins was substituted as counsel for the Franks by Order dated June 10, 1997. The pending action was non-suited and Collins had to refile the suit solely against Clopper. Collins pursued the personal injury matter to satisfactory settlement.

15. Although Earls asserted an attorney's lien when he was terminated, he failed to pursue the lien. Despite repeated requests from Anthony Collins and the Franks, Earls failed to turn over the original and complete file which he continued to retain up to and including the date of the hearing before this Board. Copies of portions of the file were given to Mr. Collins sometime after his undertaking representation of the Franks.

After reviewing all evidence and exhibits from both bar counsel and Earls, the Board finds by clear and convincing evidence that Earls acted improperly during his representation of the Franks and conducted himself in violation of certain disciplinary rules of the Virginia Code of Professional Responsibility.

NATURE OF MISCONDUCT

Donald Edward Earls violated the following disciplinary rules of the Virginia Code of Professional Responsibility:

DR 6-101. (A)(1) and (2) * * *

DR 6-101. (B) and (D) * * *

DR 7-101. (A)(3) * * *

DR 9-102. (A)(1) and (2) * * *

DR 9-102. (B)(1) and (4) * * *

IMPOSITIONS OF SANCTIONS

At the conclusion of the hearing, including evidence in mitigation and aggravation, and upon considering the ABA Sanction Guideline Standards, a prior disciplinary record including, but not limited to, four public reprimands and five occasions of findings of dishonesty and a two-year suspension, as well as Respondent's lack of contrition, candor, remorse or apology, and the fact that Respondent is not new to the practice of law, having been admitted to practice in 1971, the appropriate sanction, after due deliberation, should be the Revocation of the license of Donald Edward Earls to practice law in the Commonwealth of Virginia. It is therefore

ORDERED that pursuant to Part Six, Section IV, Paragraph 13C.(6)(c)(v) of the Rules of the Supreme Court of Virginia, the license of Donald Edward Earls is hereby REVOKED, effective May 12, 2000.

* * *

ENTER this Order the 13th day of June, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Henry P. Custis, Jr., First Vice Chair

[Editor's Note:Respondent has noted an appeal to the Virginia Supreme Court.]

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
DAVID EUGENE MICHAEL
VSB Docket No. 99-051-0777

FINAL ORDER
(Suspension)

On June 23, 2000, this matter came on for hearing upon certification by the Fifth District Committee, Section I, of the Virginia State Bar, dated April 13, 1999. The hearing was held before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Henry P. Custis, Jr., First Vice-Chair,

presiding, and Dennis P. Gallagher, Robert C. Elliott, II, Deborah A.J. Wilson, and Roscoe B. Stephenson, III.

All notices required by law were sent by the Clerk of the Disciplinary System.

The Respondent appeared in person, *pro se.*

Seth M. Guggenheim, Esquire, appeared as counsel for the Virginia State Bar.

The Chair opened the hearing by polling all members of the panel as to whether there existed any conflict or other reason why any member should not sit on the panel. Each, including the Chair, responded in the negative.

The exhibits listed by the Virginia State Bar in its pre-hearing filing were received and accepted into the record without objection. The Respondent did not pre-file any exhibits.

The facts and misconduct of the case were presented by way of a stipulation, which was received and accepted into the record. The Board adopted the stipulation of facts as its findings of fact, by clear and convincing evidence, and the Board adopted the stipulation of misconduct as its findings of misconduct. The stipulation is now set out verbatim and incorporated into this order.

STIPULATIONS

On this 12th day of June, 2000, came Seth M. Guggenheim, Esquire, counsel for the Virginia State Bar and Respondent, David Eugene Michael, Esquire, and tender the following Stipulations, with the intent that the same be offered into evidence, without objection, on the occasion of the Board Hearing in this matter, currently scheduled for Friday, June 23, 2000.

A. STIPULATION OF FACTS

1. At all times relevant hereto, the Respondent, David Eugene Michael, Esquire (hereinafter Respondent), has been an attorney licensed to practice law in the Commonwealth of Virginia, though not always in good standing, by reason of the suspensions hereafter set forth.

2a. On January 8, 1993, the Respondent was licensed to practice law in the Commonwealth of Virginia. On September 29, 1993, the Virginia State Bar sent the Respondent notice, at his last address of record with the Virginia State Bar, that his license to practice law in the Commonwealth of Virginia could be suspended on October 14, 1993, for failure to pay his bar dues and certify his insurance status.

2b. On October 14, 1993, the Respondent's license to practice law in the Commonwealth was suspended for his failure to pay his bar dues and certify his insurance status.

2c. Respondent's license to practice law in the Commonwealth of Virginia was further suspended on March 15, 1994, for his noncompliance with Mandatory Professionalism Course requirements and on October 14, 1994, for his noncompliance with Mandatory Continuing Legal Education requirements.

2d. Respondent's license to practice law in the Commonwealth of Virginia was forfeited on February 20, 1996, for his nonpayment of dues.

2e. The Virginia State Bar timely notified Respondent of the above mentioned suspensions and forfeiture of his license to practice law in the Commonwealth of Virginia in the manner prescribed by law by certified mail to Respondent's address of record with the Virginia State Bar.

3. At no time following October 14, 1993, was Respondent authorized to practice law in the Commonwealth of Virginia by reason of the suspensions and forfeiture of his license to practice as set forth in the foregoing subparagraphs.

4. In September of 1994, Olga V. Gonzalez, the Complainant, hired the Respondent to represent her in a pending divorce action. The Complainant had already been served with a bill of complaint for divorce, but had not yet answered the complaint.

5. On October 5, 1994, the Respondent filed an answer and cross-bill for the Complainant in the Circuit Court of Fairfax County, Virginia.

6. On December 18, 1997, the Court entered a Decree of Reference in the Complainant's divorce case referring the matter to a Commissioner. A copy of the Decree was mailed to the Respondent by opposing counsel on December 10, 1997 at the Respondent's last address of record with the court. Thereafter, the Respondent was sent notice, at his last address of record with court, of the Commissioner's first meeting with the attorneys for the parties and the Commissioner's Hearing. The Respondent failed to appear for the first meeting and for the Commissioner's Hearing. When the Respondent failed to appear for the Commissioner's Hearing, the Commissioner continued the hearing. On April 6, 1998, the Commissioner located the Respondent at a new address and left a message on the Respondent's voice mail and with the Respondent's office staff notifying the Respondent of the new date for the Commissioner's Hearing, stating who he was, why he was calling, and asking the Respondent to call him. The Respondent was also mailed notice of the new date of the Commissioner's Hearing at both his address of record with the court and his new address. On April 15, 1998, the date to which the Commissioner's Hearing had been continued, the Respondent called the Commissioner and informed the Commissioner that he no longer represented the Complainant, and that he was no longer practicing law in Virginia.

7. A Final Decree of Divorce was entered on June 2, 1998. In September of 1998, the Complainant learned from her former spouse that her divorce was final. The Complainant, who lives out of state, states that the Respondent never

informed her of any court dates or contacted her regarding the proceedings after her initial contacts with him in the fall of 1994. The Complainant states that at some point, the Respondent did inform her that he was leaving the practice of law, but stated he would refer her case to another attorney. The Complainant never heard from any other attorney regarding her case. The Respondent states that he informed the Complainant that he was leaving the practice of law and that she needed to hire new counsel.

8. The Respondent failed to notify the Virginia State Bar of any changes of address after his admission in 1993. The Respondent failed to notify the court of any changes of address after entering his appearance in the Complainant's case in October of 1994. The Respondent also failed to move to withdraw from the Complainant's case when he left the practice of law in Virginia, and was still listed as counsel of record with the court at the time of Commissioner's Hearing.

B. STIPULATION OF MISCONDUCT

The aforementioned conduct on the part of the Respondent constitutes a violation of the following Disciplinary Rule(s) of the Virginia Code of Professional Responsibility:

DR 1-102. (A)(3) * * *

DR 2-108. (C) * * *

DR 6-101. (B), (C) and (D) * * *

* * *

Thereupon the Board proceeded to consider disposition of the stipulated ethical violations. The Virginia State Bar made it known that the Respondent had a prior record of a private reprimand with terms resulting from an improper withdrawal. Bar Counsel did note the Respondent's cooperation in disposition of the present case. The Board then heard argument from both parties on the matter of disposition.

IN CONSIDERATION OF WHICH, having received and adopted the stipulation, and having heard all the evidence and arguments of counsel, the Board finds that the appropriate disposition of this case is a thirteen month suspension.

ACCORDINGLY IT IS ORDERED that the license of David Eugene Michael be, and the same is hereby SUSPENDED for a period of thirteen months, effective June 23, 2000.

* * *

ENTERED this 10th day of August, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Henry P. Custis, Jr., Chair

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
ANNE MUSULIN
VSB Docket Nos. 99-060-3137
00-060-2052

ORDER

This matter came to be heard on May 4, 2000, upon an Agreed Disposition between the Virginia State Bar and the Respondent, Anne Musulin, Esquire, by her counsel, Michael L. Rigsby.

A duly convened panel of the Virginia State Bar Disciplinary Board consisting of Randy I. Bellows, Esquire, Karen A. Gould, Esquire, Werner H. Quasebarth, Bruce T. Clark, Esquire, and Henry P. Custis, Jr., Esquire, presiding, considered the matter. The Respondent, Anne Musulin, appeared by her counsel, Michael L. Rigsby, and Dorothy M. Pater, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar.

It is the decision of the Virginia State Bar Disciplinary Board to accept the Agreed Disposition. The Stipulations of Fact, Stipulation of Misconduct, and Stipulation of Disposition agreed to by the Virginia State Bar and the Respondent are incorporated herein as follows:

VSB Docket No. 99-060-3137

1. At all times relevant hereto, the Respondent, Anne Musulin (hereinafter "Ms. Musulin"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On October 30, 1995, the Complainant, Elizabeth Barrow (hereinafter "Ms. Barrow"), hired Ms. Musulin to represent her in adopting two children. On October 30, 1995, Ms. Barrow gave Ms. Musulin a check in the amount of $200 toward Ms. Musulin's fee, which Ms. Musulin subsequently deposited into her trust account on November 10, 1995.

3. Thereafter, Ms. Barrow gave Ms. Musulin another check in the amount of $100, but Ms. Musulin never did cash the check.

4. Subsequently, Ms. Barrow called Ms. Musulin numerous times, in an effort to find out the status of her adoption case, but Ms. Musulin failed to return any of Ms. Barrow's telephone calls. On March 17, 1999, Ms. Barrow sent Ms. Musulin a letter by certified mail, advising Ms. Musulin that she had contacted another attorney to represent her and asking Ms. Musulin to forward her file and a refund of the monies she had paid Ms. Musulin. Ms. Barrow's March 17, 1999 letter was later returned to her, with a notation that Mr. Musulin's post office box was closed.

5. Ms. Barrow ultimately had to contact the Virginia State Bar (hereinafter the "Bar") in order to obtain Ms. Musulin's current address. Ms. Barrow subsequently filed a Bar complaint against Ms. Musulin on May 12, 1999.

6. During the course of the Bar's investigation of Ms. Barrow's complaint, it was discovered that Ms. Musulin had paid herself from her trust account the $200 in attorney's fees that Ms. Barrow had given her, although Ms. Musulin had never done any work on Ms. Barrow's custody case. On March 8, 2000, having realized that it was improper to have paid herself the $200 in attorney's fees, Ms. Musulin gave Ms. Barrow a refund in the amount of $200.

7. Moreover, on December 9, 1999, the Bar issued a subpoena duces tecum to Ms. Musulin, which was personally served on Ms. Musulin on December 13, 1999. The return date on the Bar's subpoena duces tecum was December 30, 1999, but Ms. Musulin failed to produce any of the documents which were the subject of the Bar's subpoena duces tecum by December 30, 1999. On January 18, 2000, the Bar filed a Petition for a Rule to Show Cause against Ms. Musulin because of her failure to comply with the Bar's subpoena duces tecum and on January 24, 2000, Ms. Musulin was personally served with a Rule to Show Cause Order entered by the Hanover County Circuit Court. On February 1, 2000, Ms. Musulin was found to be in contempt of court because of her failure to produce the subpoenaed documents.

8. From October 1, 1995 through December 8, 1999, Ms. Musulin failed to maintain any trust account records.

VSB Docket No. 00-060-2052

1. At all times relevant hereto, the Respondent, Anne Musulin (hereinafter "Ms. Musulin"), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On December 19, 1997, one Margie K. Heath (hereinafter "Ms. Heath"), retained Ms. Musulin for $1,500 to represent her in a divorce suit pending against her in the Hanover County Circuit Court. At the time that Ms. Musulin received Ms. Heath's $1,500 retainer, the funds were unearned, but Ms. Musulin failed to deposit the money into her trust account.

3. Thereafter, Ms. Musulin filed an Answer and Cross-Bill on behalf of Ms. Heath in response to the Bill of Complaint filed by Ms. Heath's husband, Timothy T. Heath (hereinafter "Mr. Heath"). The Answer and Cross-Bill requested the Hanover County Circuit Court to award Ms. Heath temporary and permanent child and spousal support, an equitable division of the marital assets pursuant to Virginia Code Section 20-107.3 and an award of attorney's fees and costs expended.

4. On February 3, 1999, Mr. Heath, by his counsel, mailed a Notice to Ms. Musulin's office, advising that he would appear before the Honorable Richard H. C. Taylor of the Hanover County Circuit Court and move the court to award Mr. Heath a Final Decree of Divorce on February 16, 1999 at 9:00 a.m. On February 16, 1999, the Final Decree was left with the court.

5. Despite the fact that Ms. Musulin had received Mr. Heath's Notice of the February 16, 1999 hearing, she failed to notify Ms. Heath about the court date and failed to appear at the hearing. On February 24, 1999, the court entered Mr. Heath's proposed Final Decree, without any objection having been made by Ms. Musulin. The Final Decree failed to contain language reserving jurisdiction for equitable distribution of the parties' marital assets, determination of spousal support or attorney's fees and costs.

6. Ms. Heath lost her right to have the court award her an equitable distribution of the marital assets, spousal support and her attorney's fees and costs because no legal objection was made by Ms. Musulin on behalf of Ms. Heath to the entry of the Final Decree, beforehand or within twenty-one days thereafter.

7. Ms. Musulin has no prior disciplinary record with the Bar.

The Board finds by clear and convincing evidence that such conduct on the part of Anne Musulin constitutes a violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility, as well as the Virginia Rules of Professional Conduct:

DR 1-102. (A)(3) and (4) * * *

DR 6-101. A(1) and (2) * * *

DR 6-101. (B), (C) and (D) * * *

DR 7-105. (A) * * *

DR 9-102. (A)(1) and (2) * * *

DR 9-103. (A)(1), (2), (3) and (4) ** *

DR 9-103. (B)(4)(a) and (b) * * *

DR 9-103. (5)(a), (b) and (c) * * *

DR 9-103. (6) * * *

Rule 3.4.(d) * * *
Rule 8.1(c) and (d) * * *

Rule 8.4(b) * * *

* * *

Upon consideration whereof, it is ORDERED that the Respondent shall have her license to practice law suspended for four (4) years effective upon entry of this Order, and such Suspension shall be conditioned on the following terms:

2. The active four (4) year suspension period shall be immediately followed by a six (6) month probationary period during which period of time the following conditions of probation shall be applicable:

   A. Ms. Musulin shall, prior to resuming the practice of law, establish and operate a trust

account in accordance with the provisions of the Virginia Rules of Professional Conduct.

B. Ms. Musulin agrees that the Virginia State Bar may conduct a random audit of her trust account during the six (6) month probationary period as the Bar deems appropriate. Any violation of the provisions of Rule of Professional Conduct 1.15 found in said audit shall constitute a breach of Term No. 1.

In the event that the Respondent does not comply with the above terms, the Disciplinary Board shall impose a sanction of Suspension (for such additional time as the Disciplinary Board deems appropriate) or Revocation of her license to practice law (if the Disciplinary Board deems this to be the appropriate sanction).

ENTERED this 13th day of June, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Henry P. Custis, Jr., First Vice Chair

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
EVERETT MICHAEL MYERS
VSB Docket # 98-010-1787

ORDER AND
OPINION OF SUSPENSION

This matter came to be heard on February 18, 2000 in the matter of Everett Michael Myers, VSB Docket No. 98-010-1787 before a panel of the Virginia State Bar Disciplinary Board composed of Michael A. Glasser, Acting Chair, presiding, Theophlise L. Twitty, Robert C. Elliott, II, Werner H. Quasebarth and Anthony J. Trenga. Respondent, Everett Michael Myers, appeared *pro se*. Edward L. Davis, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar. This matter came before the Board by certification of a subcommittee of the First District Committee dated June 24, 1999.

Before the presentation of evidence, there was a declaration of no conflicts by each of the members of the panel that was accepted by the parties without objection. Upon motion, witnesses were excluded.

Opening statements were heard, following which the Bar presented its evidence, which consisted of its exhibits 1-3 and the testimony of five witnesses; and Respondent, his evidence which consisted of his testimony and one witness.

Through the exhibits and witnesses, the following evidence was presented to the Board:

1. During all times relevant hereto, the Respondent, Everett Michael Myers (hereinafter Respondent or Mr. Myers), was an attorney licensed to practice law in the Commonwealth of Virginia.

2. On January 26, 1998, a woman consulted with Mr. Myers about a divorce. She had received a Bill of Complaint from her husband and was concerned about child support. She testified that during meetings with Mr. Myers at his office, Mr. Myers touched her inappropriately by grabbing her and hugging her tightly, placing his hand on her legs above her knee, and slapping her on the buttocks. According to this woman, she was too afraid to meet with Mr. Myers again, and went to another attorney.

3. During the fall of 1997, a young woman, age 19 with one child, consulted with Mr. Myers about a divorce. She thereafter retained him in connection with her domestic situation and on October 8, 1997, Mr. Myers filed her Bill of Complaint for Divorce on her behalf in the Isle of Wight Circuit Court. The divorce action was never completed. In addition, following his initial meeting with her, Mr. Myers offered her a job and, on October 1, 1997, hired her as a legal assistant.

4. According to the young woman, while she was an employee and client of Mr. Myers, he began a personal and sexual relationship with her. He also took her to a tattoo parlor, to place a tattoo by her navel, asked her to accompany him on an overnight trip to Las Vegas as his personal secretary, and asked her to order items for herself from various Frederick's of Hollywood catalogs he kept in the office. He also assisted her in securing an apartment and for a certain period of time paid the rent for the apartment.

5. Mr. Myers paid the young woman $200 per week. He annotated on her paycheck that the pay was for office cleaning, when she was in fact employed as a legal assistant. Mr. Myers acknowledged to her that he made those notations in order to avoid paying Social Security and other benefits.

6. Another former employee testified that Mr. Myers inappropriately touched her and made suggestive comments to her and she quit her employment with him because of it.

7. In his defense, Mr. Myers denied any sexual relationship with the young woman he represented and the other allegations made by her and the Bar's other witnesses.

8. Prior to May 5, 1998, Mr. Myers did not maintain an attorney trust account. Most of the fees he collected were flat fees, and he felt that an attorney trust account was not necessary as long as he could identify the client money with subsidiary ledgers. He placed his client fees in a "CAP" account at First Union Bank. The account did not meet any of the overdraft notification requirements of the Virginia Code of Professional Responsibility. After the Virginia State Bar investigation began, he opened an attorney trust account at First Union Bank on May 5, 1998.

The Bar alleges that Respondent violated the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 1-102. (A)(3) and (4) * * *

DR 5-105. (A) * * *

DR 7-101. (A)(3) * * *

DR 9-102. (A)(1) and (2) * * *

DR 9-103. (B)(1)(a), (b), (c), (d) and (e) * * *

9. Following the presentation of evidence by the Bar and by Respondent, the Board deliberated and determined that the Bar had proven by clear and convincing evidence that Respondent has violated DR1-102(A)(3) and (4), DR7-101(A)(3), DR9-102(A)(1) and DR9-103(B)(1), but had failed to prove by clear and convincing evidence a violation of DR5-105(A). The Board then entertained argument and the presentation of evidence as to an appropriate sanction, following which the Bar adjourned again and after deliberations, re-convened to announce its decision that Respondent's license to practice law be suspended for a period of two (2) years, effective immediately.

Whereupon it is:

ORDERED that pursuant to Part 6, §IV, ¶13C.(6) of the Rules of the Virginia Supreme Court that the license of Respondent, Everett Michael Myers, to practice law in Virginia be, and the same hereby is, suspended, commencing February 18, 2000 as set forth in the Board's Order dated and entered February 18, 2000.

* * *

ENTER this Order this 18th day of February, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Michael A. Glasser, Acting Chair

[NOTE:Respondent has noted an appeal to the Virginia Supreme Court.]

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
MADELEINE MARIE REBERKENNY
VSB Docket Nos. 94-042-0640
94-042-2171
94-042-2558

ORDER OF SUSPENSION

THIS MATTER came on May 26, 2000, to be heard upon the Notice to Show Cause Motion to Impose Thirteen Months Suspension upon proper notice to the Respondent, Madeleine Marie Reberkenny. On that day, the matter came before and was heard by a duly convened panel of the Virginia State Bar Disciplinary Board, consisting of D. Stan Barnhill, Richard J. Colten, Eric N. Davidson, John A. Dezio, and William M. Moffett, presiding.

Deputy Bar Counsel, Harry M. Hirsch, appeared on behalf of the Virginia State Bar, and the Respondent, Madeleine Marie Reberkenny, neither appeared nor was she represented by counsel.

Having considered all exhibits introduced into evidence by Deputy Bar Counsel, without objection, as well as argument by Bar Counsel and the failure of the Respondent to make an appearance at the proceedings or to note any objection to the proceeding going forward; and further noting that pursuant to Virginia State Bar Disciplinary Board Rule of Procedure IV.D(11) the burden to prove by clear and convincing evidence that she has complied with the terms of the three prior Orders of the Disciplinary Board rests with the Respondent, the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

1. At all times relevant hereto, the Respondent, Madeleine Marie Reberkenny, has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On May 19, 1997, the Respondent entered into three separate agreed dispositions, and the three Orders were entered by this Disciplinary Board on October 21, 1997. The Orders related to VSB Docket Nos. 94-042-0640, 94-042-2171 and 94-042-2558.

3. All three Orders contained various conditions and requirements that were to be met by the Respondent, compliance with which were to be a predicate for the disposition of a Public Reprimand with Terms of the three separate complaints.

4. Included in the three Orders referenced above was the condition that the Respondent's failure to strictly comply with any one or more of the agreed terms would result in the imposition of the alternate disposition, i.e., the suspension of the Respondent's license to practice law for a period of thirteen (13) months.

5. The three Orders contained a provision that the imposition of the alternative sanction shall not require any hearing on the underlying charges of misconduct if the Respondent failed to comply with any of the terms and conditions.

6. The Respondent has failed to prove by clear and convincing evidence that she provided Deputy Bar Counsel, on a quarterly basis, written reports from a licensed psychologist or otherwise qualified professional counselor establishing that Madeleine Marie Reberkenny was continuing to satisfactorily participate in counseling or that she had successfully completed the same.

7. Additionally, Respondent has failed to prove by clear and convincing evidence that she complied with the term requiring her to describe in writing, in detail, on a quarterly basis, the process that she instituted and maintained regarding a docket control system which would insure that

she reviewed the status of all pending matters periodically and reminded her in advance of all appropriate dates and deadlines and other obligations constituting a malpractice tickler system.

8. The Respondent, Madeleine Marie Reberkenny, neither appeared nor was represented by counsel at the hearing conducted by the Virginia State Bar Disciplinary Board on May 26, 2000. She offered no evidence, witnesses, exhibits or argument to establish by clear and convincing evidence that she had complied with the terms and conditions contained in the three Orders entered by this Board on October 21, 1997. The burden of proof was on the Respondent to show that she had complied with the terms and that the thirteen-month suspension should not be imposed. She did not do so.

Therefore, the alternative sanction set out in the three Orders entered by this Board on October 21, 1997, shall be imposed. The alternative sanction is; and it is so

ORDERED that the Respondent's license to practice law in Virginia is SUSPENDED for thirteen (13) months, effective May 26, 2000, pursuant to Virginia State Bar Disciplinary Board Rule of Procedure IV.D(11), and the Rules of the Supreme Court of Virginia, Part Six, §IV, ¶13.C(6).

* * *

ENTER this Order this 1st day of August, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By William M. Moffet, Second Vice Chair

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
BRADLEY COBLENTZ SNOWDEN
VSB Docket No. 00-000-3280

ORDER

On July 28, 2000, this matter came on for hearing upon the Show Cause Order and Order of Suspension and Hearing, dated June 29, 2000, before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Henry P. Custis, Jr., Chair, Stan Barnhill, Donna A. DeCorleto, Robert L. Freed, and Randy I. Bellows.

The Respondent, Bradley Coblentz Snowden, did not appear in person, nor was he represented by counsel. Richard E. Slaney, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar.

The purpose of this hearing was for the Board to determine whether to impose reciprocal discipline on Respondent Snowden based upon the imposition of such discipline by the Supreme Court of Appeals of West Virginia. In rendering its decision, this Board accepts and relies upon the following: (1) Show Cause Order and Order of Suspension and Hearing, dated June 29, 2000; (2) Order of Suspension from the Supreme Court of Appeals of West Virginia, in a proceeding styled Lawyer Disciplinary Board vs. Bradley C. Snowden, etc., dated April 19, 2000; and (3) Amended Report and Recommendations of the Hearing Panel Subcommittee, in the same proceeding, filed in the Supreme Court of Appeals of West Virginia on March 16, 2000. On this basis, the Board makes the following findings:

(1) Respondent Snowden was licensed to practice law within the Commonwealth of Virginia on October 2, 1985. He was admitted to the West Virginia State Bar on December 2, 1992.

(2) On April 19, 2000, based upon a report and recommendations filed by a hearing panel of the West Virginia State Bar's Lawyer Disciplinary Board, the Supreme Court of Appeals of West Virginia found that the respondent had violated Rules 1.3 (Diligence), 1.4 (Communication), 1.7(a) (Conflict of interest), and 1.16(a)(1) (Declining or terminating representation) of the West Virginia Rules of Professional Conduct. These findings of misconduct occurred in 1992 and 1993, and arose out of the respondent's activities as an employee of a West Virginia law firm, Martin & Seibert.

(2) Based on the foregoing findings of misconduct, Respondent Snowden was suspended from the practice of law by the Supreme Court of Appeals of West Virginia, effective June 15, 2000. The terms of suspension were as follows:

(a) that respondent's license to practice law in West Virginia was suspended for a period of three months;

(b) that respondent's license to practice law in West Virginia was to be automatically reinstated at the conclusion of the suspension period;

(c) that, following reinstatement, respondent be supervised in the practice of law for a period of twelve months, by an attorney in good standing with the West Virginia Bar, of his choosing from without his law firm of Martin & Seibert, said supervising attorney to be approved by the West Virginia Bar's Office of Disciplinary Counsel with an agreement containing written terms and goals for the supervision;

(d) that respondent be required to continue psychological counseling for at least one year, and thereafter so long as necessary to help him deal with the problems that led to this disciplinary action; and

(e) that respondent be required to reimburse the Lawyer Disciplinary Board for the costs of the disciplinary proceeding.

(3) The conduct for which the Respondent was suspended in the State of West Virginia would likewise constitute misconduct under the Virginia Code of Professional Responsibility.

It is, therefore, ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia be and hereby is suspended for a period of three months, effective June 15, 2000, nunc pro tunc, to be followed by compliance with each and every one of the terms set forth by the Supreme Court of Appeals of West Virginia in its Order of Suspension, including but not limited to the requirements of twelve months of professional supervision.

* * *

ENTERED this 21st day of August, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Henry P. Custis, Jr., Chair

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BEFORE THE VIRGINIA STATE BAR
DISCIPLINARY BOARD

In the Matter of
JAMES DUDLEY YOUNG, ESQUIRE
VSB Docket No. 98-053-2308
98-053-2318

ORDER

This matter came on April 13, 2000, to be heard on the Agreed Disposition of the Virginia State Bar and the Respondent, based upon the Certification of the Fifth District Subcommittee, Section III. The Agreed Disposition was considered by a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Bruce T. Clark, Esquire, Donna A. DeCorleto, lay person, Janipher Winkfield Robinson, Esquire, Anthony J. Trenga, Esquire, and Carl A. Eason, Esquire, presiding.

Noel D. Sengel, Esquire, representing the Bar, and Gilbert K. Davis, representing the Respondent, James Dudley Young, Esquire, presented an endorsed Agreed Disposition, reflecting the terms of the agreement between the Virginia State Bar and the Respondent.

Having considered the Certification and the Agreed Disposition, it is the decision of the Board that the Agreed Disposition be accepted, and the Virginia State Bar Disciplinary Board finds by clear and convincing evidence as follows:

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

2. On May 31, 1997, Eugene Harold Westbrook was arrested for rape. In early June of 1997, Mr. Westbrook hired the Respondent to defend him. Mr. Westbrook's trial was originally set for January 5, 1998. The trial was continued to January 28, 1998.

3. On the first day of the trial, Mr. Westbrook became very concerned about the Respondent's attitude and his representation. Among other things, Mr. Westbrook believed the Respondent's opening statement did not present the facts of Mr. Westbrook's case correctly. During a recess, when the Respondent was in another part of the room, Mr. Westbrook approached the court deputy and asked if he could talk to the judge. The deputy said Mr. Westbrook could not and Mr. Westbrook walked back towards the defense table. As Mr. Westbrook walked toward the defense table, the Respondent blocked Mr. Westbrook's way and demanded to know why Mr. Westbrook had talked to the deputy. Mr. Westbrook told the Respondent that he felt the Respondent had not related the facts of the case correctly in the opening statement. Mr. Westbrook wished to diffuse the situation by leaving the room and moved to walk past the Respondent. The Respondent continued to block Mr. Westbrook's way.

4. After the lunch recess, the Respondent moved to withdraw as counsel stating Mr. Westbrook had complained about his handling of the case. The Court denied the Respondent's motion.

5. Before the above related court room incident, when the Respondent was asked by the Court if he had extensive cross-examination of the alleged victim, the Respondent answered, "Fairly, Your Honor." However, after the Court denied the Respondent's motion to withdraw, when the time came in the trial for the Respondent to cross-examine the alleged victim and other Commonwealth's witnesses, the Respondent did not cross-examine the victim or the Commonwealth's next two witnesses, and renewed his motion to withdraw from the case.

6. After recessing the court for the evening, Judge Vieregg called Judith Barger, Esquire, of the Fairfax Public Defender's office. Judge Vieregg requested that Ms. Barger meet with the Respondent and Mr. Westbrook in order to provide Mr. Westbrook with independent advice regarding the discord between Mr. Westbrook and the Respondent. Ms. Barger agreed.

7. The next morning, Mr. Westbrook and the Respondent agreed to accept Ms. Barger's assistance. Ms. Barger showed the Respondent a case which seemed to require the court to permit withdrawal in the event of such a rupture of the attorney-client relationship as existed between Mr. Westbrook and the Respondent. After a recess, the Respondent again moved to withdraw and cited the case to the judge. Mr. Westbrook also asked that the Respondent be allowed to withdraw and moved for a mistrial.

8. During argument on the motions, Ms. Barger informed the Court that Mr. Westbrook had a witness who could give testimony pertinent to the motions. The Court called Mr. Bert Mount, a defense investigator, who testified that during a recess on the previous day, he heard the Respondent state to Mr. Westbrook that he would continue to sit with Mr. Westbrook at the defense table but "not do a damn thing" on his behalf. After Mr. Mount's testimony, the Court granted Mr. Westbrook's motion for a mistrial and the Respondent's motion to withdraw.

9. After the granting of the motion for a mistrial, Judge Vieregg reviewed the court reporter's audio tape of the trail. He discovered that the recorder had been left on during a recess and recorded a conversation between Mr. Westbrook and the Respondent during which the Respondent said the following to Mr. Westbrook:

> You want another lawyer? You going to get another lawyer? Did you call one? You better go call one, if you want one, because I'm not going to represent you anymore. I'll tell you that. I mean I'll sit here, but I'm not saying a damn thing.

10. Mr. Young has been licensed to practice law in the Commonwealth of Virginia since 1973 and has no prior disciplinary record, a mitigating factor recognized by the ABA.

11. Mr. Young's conduct complained of in both VSB Docket No. 98-053-2308 and VSB Docket No. 98-053-2318 is nearly identical, only the named complainants vary.

The Board finds by clear and convincing evidence that such conduct on the part of James Dudley Young, Esquire, constitutes a violation of the following Rule(s) of the Virginia Code of Professional Responsibility:

DR 6-101. (B) * * *

DR 7-101. (A) (1) and (2) * * *

Upon consideration whereof, it is ORDERED that for violation of the Virginia Code of Professional Responsibility, Disciplinary Rules 6-101(B) and 7-101(A)(1) and (2), the Respondent shall receive effective upon entry of this Order a Public Reprimand in VSB Docket No. 98-053-2308. The remaining Disciplinary Rules cited in the certification in VSB Docket No. 98-053-2308 shall be dismissed for lack of clear and convincing evidence.

It is further ORDERED that VSB Docket No. 98-053-2318 shall be dismissed as being duplicative. VSB Docket No. 98-053-2318 relates to the same trial and raises the same issues as VSB Docket No. 98-053-2308. The Complainants listed in VSB Docket No. 98-053-2318 shall be added as Complainants in VSB Docket No. 98-053-2308.

* * *

ENTER this Order this 29th day of June, 2000
VIRGINIA STATE BAR DISCIPLINARY BOARD
By Carl A Eason, Chair

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District Committee

BEFORE THE SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
CHARLES V. BASHARA
VSB Docket NO. 00-021-0657

SUBCOMMITTEE DETERMINATION
(Public Reprimand with Terms)

On August 1, 2000, a meeting in this matter was held before a duly convened Subcommittee of Section II of the Second District Committee, consisting of Michael F. Fasanaro, Esquire, Robert W. Carter (lay member), and Lisa Ann Largey Broccoletti, Esquire, Chair presiding.

Pursuant to Virginia Supreme Court Rules of Court Part Six, Section IV, Paragraph 13(B), the Second District Subcommittee of the Virginia State Bar hereby serves upon the Respondent, Charles V. Bashara, the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. During all times relevant hereto, the Respondent Charles V. Bashara (hereinafter Respondent), was an attorney licensed to practice law in the Commonwealth of Virginia.

2 On or about May 28, 1996, DeMonica Boone and her husband, Edward Boone, retained the Respondent to represent them for personal injuries suffered in a motor vehicle accident that occurred on or about May 25, 1996.

3. On or about May 29, 1996, DeMonica Boone began treatment with health care provider Dr. Michael C. Ebner for injuries suffered along with her husband, Edward Boone, in the aforesaid motor vehicle accident. Said treatment lasted through June, 1996, with fees for the health care services of Dr. Ebner being $1,965.

4. Prior to settling DeMonica Boone's claim for personal injuries in April, 1997, Respondent received the medical bills of Dr. Ebner. During this time, Respondent learned that Dr. Ebner would be moving his practice out of town to North Carolina. He further learned that Dr. Ebner would charge a fee of $1,000 to appear to testify for a videotaped deposition.

5. Prior to settling DeMonica Boone's claim, Respondent believed that Dr. Ebner's charges were excessive and that he was not being cooperative in assisting as a witness in the personal injury claim.

6. Respondent settled DeMonica Boone's personal injury claim and disbursed the proceeds to DeMonica Boone on April 9, 1997, without either paying Dr. Ebner's invoices or the statutory lien amount of *§8.01-66.2* et. seq of the Code of Virginia. Respondent's Settlement Sheet and Receipt,

dated April 9, 1997 and signed by DeMonica Boone, reflects Dr. Ebner's charges as unpaid and being the responsibility of Boone.

7. At no time prior to or including the disbursement of the settlement proceeds on April 9, 1997 did DeMonica Boone advise Respondent not to pay Dr. Ebner directly or express any opinion that Dr. Ebner's charges were excessive.

II. NATURE OF MISCONDUCT

The Subcommittee finds that such conduct on the part of Respondent constitutes misconduct in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 9-102. (B)(4) * * *

III. PUBLIC REPRIMAND 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 will be a predicate for the disposition of this complaint by a Public Reprimand with Terms:

1. On or before February 28, 2001, Respondent shall certify in writing to Assistant Bar Counsel Respondent's attendance at an approved continuing legal education course, offering two or more hours of continuing education credits, that deals with legal ethics including trust accounting. The first two hours of the course shall not count toward either the mandatory continuing legal education requirement in ethics or overall continuing legal education requirements.

   Upon acceptance by the Subcommittee of this Agreed Disposition, the Respondent shall be given a Public Reprimand with Terms and this matter shall be closed upon completion of the terms. If, however, Respondent fails to meet this term within the time specified, Respondent agrees that the matter will be certified to the Disciplinary Board without further hearing, and admits to and stipulates to the truthfulness of the preceding sections I and II, Stipulations of Fact and statement of violation of the cited Disciplinary Rule. The Respondent also agrees his prior disciplinary record may be disclosed to the Subcommittee.

SECOND DISTRICT SUBCOMMITTEE
By Lisa Ann Largey Broccoletti
Subcommittee Chair
Certified September 11, 2000

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BEFORE THE SECOND, SECTION II
DISTRICT SUBCOMMITTEE OF THE VIRGINIA STATE BAR

In the Matter of
JOHN GEORGE CRANDLEY
VSB Docket No. 98-022-1476

SUBCOMMITTEE DETERMINATION
(Public Reprimand with Terms)

On July 13, 2000, a meeting in this matter was held before a duly convened Second, Section II District Subcommittee consisting of William H. Monroe, Jr., Lisa Broccoletti and Norman A. Thomas, Chair presiding.

Pursuant to Virginia Supreme Court Rules of Court Part Six, Section IV, Paragraph 13(B)(5) and Council Rule of Disciplinary Procedure IV(B), the Second, Section II District Subcommittee of the Virginia State Bar hereby serves upon the Respondent, John George Crandley, the following Public Reprimand with Terms.

I. FINDINGS OF FACT

1. At all times material to these allegations, the Respondent, John George Crandley (Crandley), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. In the personal injury case of *Bonita Delancer v. John Alfred Thompson*, Virginia Beach Circuit Court Docket No. CL96-1071 (the Delancer Case), Crandley was counsel of record for the defendant, and represented him at trial on December 8, 1997. Thomas A. Fitzgerald (Fitzgerald) represented the plaintiff. The Honorable Robert B. Cromwell, Jr., Judge of the Circuit Court of the City of Virginia Beach (Judge Cromwell), presided over the trial.

3. During jury selection in the Delancer Case, Crandley struck two African-American jurors, a Mr. Hailey (Hailey) and a Mr. Tucker (Tucker). Fitzgerald made a motion outside the presence of the jury pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986), requiring Crandley to give race neutral reasons for those two strikes.

4. Crandley indicated he struck Hailey because Hailey was heavyset and so was the plaintiff, and Crandley intended to defend in part based on the fact the plaintiff was overweight and out of shape and that is why she wouldn't get better. Judge Cromwell accepted this explanation.

5. Crandley also indicated he struck Tucker because Tucker appeared to be effeminate and Crandley didn't like effeminate men on the jury. Judge Cromwell rejected this explanation and indicated Mr. Tucker would remain on the jury.

6. Crandley indicated several times he would not abide by Judge Cromwell's ruling and would continue to strike Tucker from the jury panel. Crandley argued with Judge Cromwell and finally declared, "Judge, I don't think we need to bring the panel out. Mr. Tucker will be stricken every time you put him back on this panel."

7. Judge Cromwell indicated Crandley had defied his ruling and interrupted the business of the court, and found Crandley in contempt, sentencing him to a $50 fine and ten days in jail.

8. As the bailiff was approaching Crandley, Crandley indicated he wanted to purge himself of the contempt. First, Crandley said, "Judge, I deeply apologize for serving my client's rights in this case;" however, Crandley finally indicated he would not strike Tucker form the panel. The trial of the Delancer Case proceeded until a mistrial was declared. The mistrial was unrelated to Crandley's actions as set forth above.

9. Crandley recognizes he has a problem with intermittent hostility toward judges, attorneys and witnesses, and has entered into psychiatric counseling to address this problem.

II. NATURE OF MISCONDUCT

Such conduct on the part of Respondent constitutes misconduct in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 1-102. (A)(3) * * *

DR 7-102. (A)(1) * * *

DR 7-105. (A) and (C)(5) * * *

III. IMPOSITION OF PUBLIC REPRIMAND 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 will be a predicate for the disposition of this complaint by a Public Reprimand with Terms. The following are the terms imposed by the Subcommittee:

1. The Respondent shall continue with psychiatric counseling for a period of five (5) years from July 13, 2000, or less if, in the opinion of his psychiatrist, continued counseling will no longer serve any useful purpose; provided further that a written report addressing the Respondent's participation in and progress with counseling is submitted to Bar Counsel's office every ninety (90) days during the course and continuation of such counseling; and

2. The Respondent, for a period of five (5) years from July 13, 2000, shall not be found in contempt of any tribunal and further, shall not engage in any conduct arising out of an appearance before any tribunal which is subsequently determined to be a violation of a Rule of Professional Conduct of the Virginia State Bar.

Upon satisfactory proof these terms have been satisfied, the Respondent shall be given a Public Reprimand with Terms and this matter shall be closed. If, however, Respondent fails to meet these terms, Respondent agrees that the Second, Section II District Committee shall certify this case for hearing before the Virginia State Bar Disciplinary Board as an alternative sanction.

SECTION, SECTION II DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR
By Norman A. Thomas, Chair Presiding
Certified August 7, 2000

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BEFORE THE SECOND, SECTION II
DISTRICT SUBCOMMITTEE OF THE VIRGINIA STATE BAR

In the Matter of
JOHN GEORGE CRANDLEY
VSB Docket No. 99-022-0070

SUBCOMMITTEE DETERMINATION
(Public Reprimand with Terms)

On July 13, 2000, a meeting in this matter was held before a duly convened Second, Section II District Subcommittee consisting of William H. Monroe, Jr., Lisa Broccoletti and Norman A. Thomas, Chair presiding.

Pursuant to Virginia Supreme Court Rules of Court Part Six, Section IV, Paragraph 13(B)(5) and Council Rule of Disciplinary Procedure IV(B), the Second, Section II District Subcommittee of the Virginia State Bar hereby serves upon the Respondent, John George Crandley, the following Public Reprimand with Terms.

I. FINDINGS OF FACT

1. At all times material to these allegations, the Respondent, John George Crandley (Crandley), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. In the personal injury case of *Anacleto Leone, Jr. v. William Palania Lee*, Virginia Beach Circuit Court Docket No. CL97-1079 (the Leone Case), Crandley was counsel of record for the defendant, and represented him at trial on June 30, 1998. Carlton F. Bennett (Bennett) represented the plaintiff. The Honorable Edward W. Hanson, Jr., Judge of the Circuit Court of the City of Virginia Beach (Judge Hanson), presided over the trial.

3. During the trial of the Leone Case, Crandley adopted a sarcastic and loud tone of voice during cross examination of the plaintiff's witnesses, prompting Judge Hanson to admonish Crandley to speak politely to all witnesses.

4. During the cross examination of the plaintiff, Crandley asked questions in a sarcastic, rude and demeaning manner, prompting Judge Hanson to hold Crandley in contempt and fine him $100, which was later reduced to $50. Judge Hanson also indicated the next time Crandley was rude or sarcastic, he would sentence Crandley to jail.

5. Crandley continued to ask questions in a sarcastic, rude and demeaning way. Judge Hanson accordingly found Crandley in contempt a second time and imposed three days in jail.

6. Judge Hanson ordered that Crandley begin serving his time immediately (i.e., during the remainder of the trial) and was not to leave the courtroom unless escorted; however, Crandley continued to argue with Judge Hanson until Judge Hanson directed his bailiff to take Crandley to jail. Judge Hanson then declared a mistrial in the Leone Case.

7. Crandley appealed the contempt citations to the Court of Appeals of Virginia, which affirmed the contempt citations.

8. Crandley recognizes he has a problem with intermittent hostility toward judges, attorneys and witnesses, and has entered into psychiatric counseling to address this problem.

II NATURE OF MISCONDUCT

Such conduct on the part of Respondent constitutes misconduct in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 1-102. (A)(3) * * *

DR 7-102.(A)(1) * * *

DR 7-105. (A) and (C)(5) * * *

III. IMPOSITION OF PUBLIC REPRIMAND 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 will be a predicate for the disposition of this complaint by a Public Reprimand with Terms. The following are the terms imposed by the Subcommittee:

1. The Respondent shall continue with psychiatric counseling for a period of five (5) years from July 13, 2000, or less if, in the opinion of his psychiatrist, continued counseling will no longer serve any useful purpose; provided further that a written report addressing the Respondent's participation in and progress with counseling is submitted to Bar Counsel's office every ninety (90) days during the course and continuation of such counseling; and

2. The Respondent, for a period of five (5) years from July 13, 2000, shall not be found in contempt of any tribunal and further, shall not engage in any conduct arising out of an appearance before any tribunal which is subsequently determined to be a violation of a Rule of Professional Conduct of the Virginia State Bar.

Upon satisfactory proof these terms have been satisfied, the Respondent shall be given a Public Reprimand with Terms and this matter shall be closed. If, however, Respondent fails to meet these terms, Respondent agrees that the Second, Section II District Committee shall certify this case for hearing before the Virginia State Bar Disciplinary Board as an alternative sanction.

SECOND, SECTION II DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR
By Norman A. Thomas, Chair presiding
Certified August 7, 2000

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BEFORE THE SECOND, SECTION II DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
WILLIAM P. ROBINSON, JR.
VSB Docket No. 98-022-1063

DISTRICT COMMITTEE DETERMINATION
(Public Reprimand)

On June 8, 2000, a hearing in this matter was held before a duly convened Second, Section II District Committee panel consisting of Jon F. Sedel, Edmund A. Langhorne, Michael A. Robusto, Robert G. Morecock, Kevin E. Martingayle and Norman A. Thomas, Chair, presiding. The Bar was represented by Richard E. Slaney, Assistant Bar Counsel. The Respondent, William P. Robinson, appeared in person and was represented by his counsel, Kenneth R. Melvin.

Pursuant to Virginia Supreme Court Rules of Court Part Six, Section IV, Paragraph 13(B)(7) and Council Rule of Disciplinary Procedure V, the Second, Section II District Committee of the Virginia State Bar hereby serves upon the Respondent, William P. Robinson, Jr., the following Public Reprimand.

I. FINDINGS OF FACT

1. At all times material to these allegations, the Respondent, William P. Robinson, Jr. (Robinson), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. On June 24, 1994, the Complainant, Oscar Cespedes (Cespedes) was indicted by a Grand Jury in the County of Surry for several felonies, all involving the distribution of cocaine.

3. On October 12, 1994, Robinson became counsel of record for Cespedes in regard to the charges described above, case no. CR94-069 (the Case) in the Circuit Court of the County of Surry (the Court).

4. On August 17, 1995, the Case went to trial and Cespedes was found guilty of six felonies related to the distribution of cocaine.

5. On July 25, 1996, the Court sentenced Cespedes to a combined sentence of twelve years. The sentencing order was entered July 25, 1996. Cespedes asked Robinson to file an appeal.

6. On August 26, 1996, Robinson mailed, by regular mail, a Notice of Appeal in the Case to the Clerk of the court. This Notice of Appeal was received by the Court on

August 28, 1996. The panel found that had the Notice of Appeal been mailed by certified mail, return receipt requested, it would have been considered timely filed; however, as it was sent by regular mail on the last day in which to file it, it was considered untimely.

7. On November 7, 1996, the Court of Appeals of Virginia (the Court of Appeals) entered an order dismissing the appeal in the Case for the reason that the Notice of Appeal was not timely filed with the Clerk of the Court.

8. Robinson wrote Cespedes on November 13, 1996 and informed him of the reason for the dismissal of the appeal. He also wrote to Cespedes on January 7, 1997, indicating a habeas corpus petition might be necessary to get a delayed appeal.

9. Inexplicably, on July 2, 1997, Robinson wrote to Cespedes, indicating in part that "Unbeknownst to us, the Court of Appeals dismissed and denied your petition for appeal."

10. Robinson subsequently prepared a habeas corpus petition (the First Petition) on behalf of Cespedes. In the portion of the First Petition listing the grounds for same (Paragraph 14 of the First Petition), Robinson wrote:

> Petitioner made a timely request of his counsel to file a notice of appeal, which action was taken in a timely fashion. However, the transcript of the proceedings of trial were not prepared, notwithstanding a directive of the trial judge to have same prepared and to permit petitioner to proceed in forma pauperis, because of his continued state of incarceration.

11. At Robinson's direction, Cespedes signed the First Petition and returned it to Robinson, who filed it.

12. On March 11, 1998, Robinson wrote Cespedes, indicating the First Petition had been filed. In that letter, Robinson also stated in pertinent part, "The clerk failed to act in a timely fashion with respect to your appeal."

13. On September 2, 1998, Robinson again wrote Cespedes, suggesting some failure or delay on the part of the trial court with regard to the trial transcript was the cause of the dismissal of the appeal.

14. The habeas corpus action based on the First Petition was denied.

15. It was unclear at the hearing exactly how many subsequent habeas corpus petitions Robinson prepared for Cespedes; however, it was clear he prepared at least one other petition (referred to for the purposes of this Determination as the Second Petition). At Robinson's direction, Cespedes signed the Second Petition, and Robinson filed it with the Court under cover of a letter dated October 29, 1999.

16. In the portion of the Second Petition listing the grounds for same (Paragraph 14 of the Second Petition), Robinson wrote:

> On July 25, 1996, sentence was imposed in the Circuit court [sic] for Surry County. On August 12, 1996, Petitioner wrote a letter to the Clerk of the Circuit Court of Surry county [sic] advising that he desired to appeal his conviction. The Clerk responded by letter indicating that Petitioner should communicate with his attorney. By the time Petitioner received that communication from the Clerk and communicated in writing, with his then-attorney, William P. Robinson, Jr., there was insufficient time for counsel to timely file the Notice of Appeal.
>
> Petitioner states that his letter to the Clerk, should have sufficed as a pro-se application for a Notice of Appeal.
>
> Petitioner has been denied his right of appeal with the Court of Appeals of Virginia, and respectfully requests that he be granted a delayed appeal.

17. At the close of the Bar's evidence, Robinson, through his counsel, moved to strike the Bar's evidence. The panel deliberated and granted the Motion with respect to the charge of a violation of DR 6-101(A), finding the Bar's evidence failed to show a violation of that Disciplinary Rule. The panel denied the Motion to Strike with respect to the other Disciplinary Rules charged in the Notice of Hearing. Robinson then put on his evidence and rested for purposes of the misconduct stage of the hearing. The panel then heard argument from both parties and deliberated on the remaining Disciplinary Rules charged.

II NATURE OF MISCONDUCT

After deliberation, the panel found such conduct on the part of Respondent constitutes misconduct in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 1-102. (A)(4) * * *

DR 6-101. (B) * * *

DR 6-101.(C) * * *

The panel dismissed the charge of a violation of DR 1-102(A)(3).

The panel then received additional evidence from the Bar at the sanctions phase of the hearing, consisting of Robinson's prior disciplinary record. Robinson declined the opportunity to offer additional evidence at the sanctions phase. The panel then heard argument from both parties as to the appropriate sanction.

III. IMPOSITION OF PUBLIC REPRIMAND

Having heard the evidence and argument from both parties, it is the decision of the Committee to impose a Public Reprimand on Respondent, William P. Robinson, Jr., and he is so reprimanded.

* * *

SECOND, SECTION II DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR
By Norman A. Thomas, Chair Presiding
Certified August 16, 2000

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BEFORE THE II-1 DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

In the Matter of
TIMOTHY WADE ROOF
VSB Docket No. 98-021-1505

SUBCOMMITTEE DETERMINATION
(Public Reprimand with Terms)

On August 1, 2000, a meeting in this matter was held before a duly convened Subcommittee of Section II of the Second District Committee, consisting of Michael F. Fasanaro, Esquire, Robert W. Carter, lay member, and Lisa Ann Largey Broccoletti, Attorney at Law, Chair presiding.

Pursuant to Virginia Supreme Court rules of Court Part Six, Section IV, Paragraph 13(B), the II-1 District Subcommittee of the Virginia State Bar hereby serves upon the Respondent, Timothy Wade Roof, the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. During all times relevant hereto, the Respondent, Timothy Wade Roof (hereinafter Respondent) was an attorney licensed to practice law in the Commonwealth of Virginia.

2. On or about December 9, 1997, the Respondent received a United States Treasury check of $4,000 as settlement of Complainant Denise L. Willey's ("Complainant") EEOC claims. The check was made payable jointly to Respondent and Complainant and consisted of $2,000 for attorneys fees and $2,000 for damages to the Complainant.

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3. Respondent did not deposit the funds intact into his escrow account, but split the deposit by depositing only $3,000 of the $4,000 into his escrow account.

4. Despite Complainant's repeated requests, Respondent did not pay to Complainant her $2,000 portion of the settlement until January 14, 1998. On January 9, 1998, Respondent had paid Complainant $650.00 in cash. On January 14, 1998, Respondent paid Complainant the balance when he paid her $1,350 in cash and (and an additional $100 check for her trouble).

5. Respondent was out of trust following the December 9, 1997 escrow deposit of the $3,000, $2,000 of which were client funds. On December 24, 1997, the trust account balance dropped to $1,798.74, below the $2,000 belonging to the Complainant. Respondent continued to be out of trust when his escrow check payable to Complainant for $1,350 was returned for insufficient funds.

II. NATURE OF MISCONDUCT

The Subcommittee finds that such conduct on the part of Respondent constitutes misconduct in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 9-102. (A)(1) and (2) * * *

DR 9-102. (B)(1)(2)(3) and (4) * * *

III. PUBLIC REPRIMAND 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 will be a predicate for the disposition of this complaint by a Public Reprimand with Terms:

1. On or before February 28, 2001, Respondent shall certify in writing to Bar Counsel Respondent's attendance at an approved continuing legal education course or viewing of a videotape of an approved continuing legal education course offering two or more hours of continuing education credits that deals with trust accounting. The first two hours of the course shall not count toward either the mandatory continuing legal education requirement in ethics or overall continuing legal education requirements.

2. On or before February 28, 2001, Respondent shall certify in writing to Bar Counsel that he has obtained a two hour office consultation and check of his escrow accounts and procedures thereon by CPA and 1999 Trust Accounting CLE panelist Rowena S. Gyorke of Newport News.

Upon written proof these terms have been satisfied, the Respondent shall be given a Public Reprimand with Terms and this matter shall be closed. If, however, Respondent fails to meet this term within the time specified, Respondent agrees that the matter will be certified to the Disciplinary Board without further hearing, and admits to and stipulates to the truthfulness of the preceding sections I and II. Stipulations of Fact and statement of violation of the cited Disciplinary Rule. The Respondent also agrees his prior disciplinary record may be disclosed to the Subcommittee.

II-1 DISTRICT SUBCOMMITTEE
By Lisa Broccoletti, Subcommittee Chair
Certified September 11, 2000

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BEFORE THE THIRD DISTRICT COMMITTEE, SECTION TWO OF THE VIRGINIA STATE BAR

In the Matter of
ANGELA DAWN WHITLEY
VSB Docket No. 99-032-2580

DISTRICT COMMITTEE DETERMINATION
(Public Reprimand)

On May 12, 2000, a hearing in this matter was held before a duly convened Third District Committee, Section Two, panel consisting of John B. Daly, lay member; Thaddeus T. Crump, lay member; Richard K. Newman, Esq.; Carol D. Woodward, Esq.; and Ann A. Webster, Esq., Chair, presiding.

The Respondent, Angela Dawn Whitley, appeared with her counsel, Robert P. Geary, Esq. Deputy Bar Counsel Harry M. Hirsch appeared for the Virginia State Bar.

Pursuant to Virginia Supreme Court Rules of Court Part Six, Section IV, Paragraph 13(B)(7)(c), the Third District Committee, Section Two of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand:

I. FINDINGS OF FACT

1. At all times relevant hereto the Respondent, Angela Dawn Whitley (Whitley), has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Complainant Felix T. Garcia (Garcia) was injured on April 17, 1996, while cycling when he was hit by a vehicle. Soon thereafter, Garcia entered into a retainer agreement with Whitley for the resulting personal injury case.

3. There was limited communication between Garcia and Whitley during 1996 and 1997. Prior to filing his bar complaint, Garcia last talked to Whitley at a restaurant in 1998 when she told him that she needed to do an economic analysis of his lost compensation.

4. At some later point, Whitley realized that she had missed the applicable statute of limitations. Whitley failed to inform Garcia that the statute of limitations had been missed. Whitley also failed to inform Garcia of the closing of her law office since she thought that Garcia would find out from discussions with others at his health club.
5. At some later point, Garcia became concerned, called the Virginia State Bar and received Whitley's new telephone number. Garcia states that he left messages at the new number for Whitley to call him but he never received a return call. Garcia states that he also sent Whitley a facsimile transmission asking for his file but got no response.

II. NATURE OF MISCONDUCT

The Respondent admitted to violations of DR 6-101(B) and DR 6-101(C) as charged.

Such conduct on the part of Angela Dawn Whitley constitutes misconduct in violation of the following provisions of the Virginia Code of Professional Responsibility:

DR 6-101. (B) and (C) * * *

It is the determination of the Committee that the bar failed to prove by clear and convincing evidence a violation of DR 2-108(D).

The prior disciplinary record of the Respondent and argument by counsel for the bar, and counsel for the Respondent, were heard and considered by the Committee in the sanction phase of the proceeding.

The prior disciplinary record of the Respondent included two private reprimands with terms issued in June of 1998.

II. PUBLIC REPRIMAND

Accordingly, it is the decision of the Committee to impose a public reprimand and the Respondent is hereby so reprimanded.

THIRD DISTRICT COMMITTEE, SECTION TWO,
OF THE VIRGINIA STATE BAR
By Ann A. Webster, Chair
Certified May 31, 2000

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