

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTERS OF JAMES STEPHEN DEL SORDO

VS Docket Nos. 10-053-083303 and 12-053-089789

MEMORANDUM ORDER

This matter came to be heard on the 23rd day of October, 2012, by the Virginia State Bar Disciplinary Board (the "Board") by teleconference upon an Agreed Disposition between the parties, which was presented to a duly convened panel of the Board consisting of Martha JP McQuade, Chair, presiding; John S. Barr; Paul M. Black; R. Lucas Hobbs; and Robert W. Carter, lay member. The Virginia State Bar was represented by Assistant Bar Counsel Prescott L. Prince, Respondent James Stephen Del Sordo appeared *pro se*. Tracy J. Stroh of Chandler & Halasz, P.O. Box 9849, Richmond, VA 23227, telephone number (804) 730-1222 was the court reporter for the hearing.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect, or could reasonably be perceived to affect, his or her ability to be impartial in these matters. Each member, including the Chair, verified that he or she had no such interests or conflict.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and the Respondent presented the written proposed Agreed Disposition into which they had entered. In addition to hearing argument in favor of the Agreed Disposition, the Board was provided with the Respondent's disciplinary record which consisted of a Private Reprimand with Terms issued by the Fifth District Section II Subcommittee of the Virginia State Bar on November 2, 2004, Respondent having complied with the terms of this determination as of December 9, 2004.

Thereafter, and having considered all evidence before it, the Board announced its decision to accept the Agreed Disposition including the following:

I. STIPULATIONS OF FACT

1. At all times relevant to the conduct set forth herein, James Stephen Del Sordo ("Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On or about March 30, 2010, the Virginia State Bar was notified by SunTrust Bank of the overdraft status of Respondent Del Sordo's attorney escrow account.
3. In response to the Bar's request for an explanation, Respondent Del Sordo sent a letter to the Bar explaining, among other things, that he wrote a check, "on the basis of a client's assertion that funds related to the check were being wired to my account. Instead of verifying that the wire transfer had been accomplished, I assumed that my client had taken the action. In reality the wire transfer did not occur until several days later and the referenced check had been returned prior to the time that the wire transfer was processed.
4. On or about October 26, 2011, the Virginia State Bar was notified by SunTrust Bank of the overdraft status of Respondent Del Sordo's attorney escrow account.
5. In response to the Bar's Request for an explanation, Respondent Del Sordo sent a letter to the Bar explaining that he withdrew funds from the account based on the client's assertion that the client had wired a payment into the account. In fact, the funds wired into the account were less than Respondent Del Sordo had expected.
6. Respondent Del Sordo asserts that the relevant client was a recurring client and that he did not check the account prior to withdrawing the funds because he had not previously had a problem with the client paying invoices in full.

7. Virginia State Bar Investigator William H. Sterling, III contacted Respondent Del Sordo. Respondent Del Sordo asserted, *inter alia*, that, to the best of his recollection, he contacted SunTrust Bank through its "800" number to ascertain that the funds had, in fact, been received by the bank. He further asserted that he had contacted the client before calling the bank to confirm that funds had been sent. Respondent Del Sordo acknowledged that on each occasion he failed to confirm the amount of the wire transfer. He asserted that the funds in question were for legal services owed to him and that he was entitled to withdraw the funds.

8. Respondent Del Sordo asserted that he puts all funds he receives from clients into the escrow account and does not transfer funds out until they are earned. He further stated that he was the only person associated with his law office, that he handles all bookkeeping, and that he is the only person on the trust account signature card. He acknowledged that he did not conduct period reconciliations.

II. FINDINGS OF MISCONDUCT

Such conduct by Respondent James Stephen Del Sordo constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.15 Safekeeping Property

(b) Specific Duties. A lawyer shall:

- (3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

- (3) In the case of funds or property held by a lawyer as a fiduciary, the required books and records shall include an annual summary of all receipts and disbursements and changes in assets comparable in detail to an accounting

that would be required of a court supervised fiduciary in the same or similar capacity; including all source documents sufficient to substantiate the annual summary.

III. IMPOSITION OF SANCTION

Having considered all evidence before it and having determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that Respondent James Stephen Del Sordo is publicly admonished for the above stated misconduct and shall be subject to the following terms and conditions:

1. The Respondent shall read Virginia Rule 1:15 and further shall read "*Lawyers and Other People's Money*", Fifth Edition, by Frank A. Thomas, III and Kathleen M. Uston, in full, and provide certification to the Virginia State Bar that he has complied with this requirement no more than 30 days from October 23, 2012, the date on which the Agreed Disposition was accepted by the Board.
2. The Respondent shall engage a law office management consultant acceptable to the Virginia State Bar on or before the fifteenth (15th) day following October 23, 2012, the date on which the Agreed Disposition was accepted by the Board. The consultant's engagement shall be for the purposes of reviewing Respondent's law practice policies, methods, systems, and escrow account maintenance and record-keeping to ensure compliance with all provisions of Rules 1.3, 1.4, and 1.15 of the Virginia Rules of Professional Conduct (hereafter "the said Rules"). In the event the consultant determines that Respondent is in compliance with the said Rules, the consultant shall so certify in writing to the Respondent and the Virginia State Bar. In the event the consultant determines that Respondent is not in compliance with the said Rules, then, and in that event, the consultant shall notify the Respondent and the Virginia State Bar, in writing, of the measures that Respondent must take to bring himself into compliance with the said Rules.
3. In the event the Respondent is determined by the consultant to be not in compliance with the said Rules, he shall have sixty (60) days following the date the consultant issues her written statement of the measures Respondent must take to comply with the said Rules within which to bring himself into compliance. The consultant shall be granted access to Respondent's office, books, records, and files following the passage of the sixty (60) day period to determine whether Respondent has brought himself into compliance, as required. The consultant shall thereafter certify in writing to the Virginia State Bar and to the Respondent either that the Respondent has brought himself into compliance with the said Rules within the sixty day (60) period, or that he has failed to do so. Respondent's failure to bring himself into

compliance with the said Rules as of the conclusion of the aforesaid sixty (60) day period shall be considered a violation of the Terms set forth herein.

4. The consultant shall again examine the Respondent's law practice policies, methods, systems, and escrow account maintenance and record-keeping at a time not earlier than six (6) months following the date of the consultant's initial certification of compliance pursuant to the terms hereof, and not later than nine (9) months following such date. The consultant shall thereafter either recertify Respondent's compliance with said Rules or issue a report to the Virginia State Bar and the Respondent stating that the Respondent is not in compliance, and the basis for such a determination. The Respondent shall be deemed to have violated the Terms hereof in the event the consultant, upon such re-examination of Respondent's said law practice policies, methods, systems, and escrow account maintenance and record-keeping, reports any material noncompliance with the requirements of any provision of Rules 1.3, 1.4, and/or 1.15 of the Virginia Rules of Professional Conduct.
5. The Respondent shall be obligated to pay when due the consultant's fees and costs for her services (including provision to the Bar and to Respondent of information concerning this matter).


It is further **ORDERED** that: Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed; If, however, all the terms and conditions are not fully met by the deadlines imposed, the Respondent's license to practice law in the Commonwealth of Virginia shall be suspended for a period of 30 days pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18.O. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed pursuant to Paragraph 13-9.E. The Board will determine any issue as to whether the terms have been fully met.

It is further **ORDERED** that costs in this matter shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9(E).

It is further **ORDERED** that the Clerk of the Disciplinary System shall send an attested copy of this Order, by certified mail, to Respondent James Stephen Del Sordo at Argus Legal, LLC, 9255 Center Street, Suite 307, Manassas, VA 20110, which is his last address of record with the Virginia State Bar, and also, by hand delivery, to Assistant Bar

Counsel Prescott L. Prince at Virginia State Bar, 707 East Main Street, Suite 1500,
Richmond, VA 23219.

ENTERED this November 6, 2012



Martha JP McQuade, Chair