VIRGINIA:

BEFORE THE FOURTH DISTRICT, SECTION I SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
John Edward Williams

VSB Docket No. 21-041-120750

SUBCOMMITTEE DETERMINATION
PUBLIC REPRIMAND WITH TERMS

On July 13, 2022, a meeting was held in this matter before a duly convened Fourth District, Section I Subcommittee consisting of Allison Helen Carpenter, Chair, Dusty Sparrow Reed, Member, and Barbara L. Kelley, Lay Member. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4. of the Rules of the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Laura Ann Booberg, Assistant Bar Counsel, and John Edward Williams, Respondent, pro se.

WHEREFORE, the Fourth District, Section I Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. Respondent was admitted to the Virginia State Bar ("VSB") in 1974. At all relevant times, Respondent was a member of the VSB.

2. On September 29, 2015, after receiving a marketing letter from Respondent dated August 12, 2015, Complainant, Susan Valentine ("Valentine"), met with Respondent and signed an Engagement Agreement ("the Agreement") dated September 29, 2015. The Agreement provided that Valentine would pay a $2,500 retainer fee, "which shall be applied to the final bill and any overage returned to you."

3. The Agreement further provided:

> We render on-account bills monthly, which you agree to pay promptly. Our statements generally will be prepared and mailed to

you during the month following the month in which services are rendered. You agree that you will pay statements within 30 days. Any amounts not paid when due will incur interest at the rate of 1 and ½% per month. Any collection action will incur attorney's fees, and a collection expense of 1/3 of the amount owed. We reserve the right to defer providing services or to discontinue our representation if billed amounts are not paid when due.

4. When she retained Respondent, Valentine had received a letter from an IRS revenue officer who wanted to schedule a meeting at Valentine's home. Wary of navigating this process with the IRS, she hired Respondent for help.

5. Valentine told VSB Investigator David Fennessey that she filed a bar complaint against Respondent because over the course of his representation of her, he missed critical deadlines, did not explain documents or specific information he needed from her, and did not guide her through the process with the IRS.

Missed Deadline in 2016

6. On February 3, 2016, Respondent filed a request for a Collection Due Process ("CDP") and/or equivalent hearing in the IRS Miami Appeals Office.

7. On February 26, 2016, IRS Settlement Officer Norma Diaz ("Diaz") sent Valentine and Respondent a letter regarding the CDP. She stated that the request for a lien hearing for the periods of 2008, 2009, 2010 and 2012 was not timely filed. Diaz stated that she had scheduled a phone conference for April 8, 2016, for Respondent to discuss alternatives to collection action. Diaz offered a 14-day window to notify Diaz if Valentine would rather meet in person.

8. In a March 9, 2016 email, Respondent told Valentine about the upcoming equivalent hearing and requested that Valentine prepare an updated Form 433-A by March 11, 2016.[1] However, he also advised that he could send Valentine's 2015 Form 433-A, which he already possessed, by March 11, 2016, and request more time to file the updated form. Respondent did not utilize the 2015 form or request more time.

9. Respondent did not attend the April 8, 2016 phone conference or respond to a "last chance letter" issued by Diaz providing another opportunity to talk to her. Respondent stated that he did not attend the phone conference because after he filed the request, he determined that Valentine had no defense to the collection action. He stated that he requested an updated Form 433-A from Valentine, but she did not provide it to him in time.

[1] According to the IRS, Form 433-A, Collection Information Statement for Wage, is used to obtain current financial information necessary for determining how a wage earner can satisfy an outstanding tax liability.

10. On May 4, 2016, Franklin D. Clark, III ("Clark"), Appeals Manager, issued a decision letter affirming the federal tax lien. Clark stated, in part:

> The Appeals Office in Miami, FL received the (CDP) request on February 3, 2016. The (CDP) request was assigned to Appeals Settlement Officer Norma Diaz on February 10, 2016. Ms. Diaz issued a substantive contact and acknowledgment letter dated February 26, 2016 scheduling a telephone conference on April 8, 2016 at 1:30 p.m. Ms. Diaz included with the letter with Publication 4227 (Welcome to Appeals).
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> Neither you nor your authorized representative called Ms. Diaz at the scheduled date and time. You did not call to indicate that the date and/or time were not convenient. Ms. Diaz issued a (Last Chance Letter) dated April 8, 2016 providing you with an additional 14 days to contact her or to submit any information you deemed pertinent for the (CDP) request. As of April 25, 2016, you have not replied to any of the letters issued, you made no attempts to contact Ms. Diaz, and we have not received any correspondence from you.
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> On Form 12153 you proposed an installment agreement or an offer in compromise as collection alternative methods. Because there was no response from you, we could not determine if you are a candidate for an installment agreement or an Offer in Compromise at this time.

11. On September 7, 2016, Valentine sent Respondent a statement of facts in what she titled an "explanation letter." In it, she detailed for Respondent the events that led to her problems with the IRS.

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12. On August 28, 2018, the IRS rejected an Offer in Compromise that Respondent instructed Valentine to file but did not review prior to filing. An October 2, 2018, telephone conference was scheduled with Appeals Officer Kay Pollack ("Pollack"). The letter was sent to Valentine and Respondent.

13. Valentine sent two emails to Respondent on September 17 and October 25, 2018, inquiring about the conference, and informing Respondent that on October 25, 2018, Pollack left a voicemail message for Valentine stating that she was trying to reach Respondent. Respondent did not respond to Valentine or attend the conference.

14. On August 6, 2019, the IRS wrote to Valentine and stated, "We have determined that your offer was submitted solely to hinder or delay our collection actions which are expected to collect significantly more than the amount you have offered."

15. Respondent told VSB Investigator Fennessey that he did not attend the conference because he had no new information to add and "nothing to say on behalf of the taxpayer." Respondent claimed that there was no adverse consequence from not attending the meeting. He stated that he appealed the denial of the offer in compromise and prepared an appeal memo.

16. Respondent admitted to not speaking to Valentine after she emailed him to prepare for the conference with Pollack. He stated that he had "no reason to have a discussion with her because he had no additional information to provide at that time."

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17. The IRS sent Valentine a letter dated November 23, 2018, copied to Respondent with an examination report. The letter directed Valentine to contact revenue Agent Michele Quint ("Quint") by December 23, 2018, if she disagreed with the findings in the report.

18. Valentine emailed Respondent regarding the letter on December 1, 2018. Respondent did not provide information to Quint, and the deadline passed. Valentine then received a Notice of Deficiency. Respondent told Valentine that he planned to address the deficiency in Tax Court.

19. The deadline to file a petition in Tax Court was April 13, 2019, which Respondent missed. Respondent stated that he did not prepare the petition because he did not have a statement of facts from Valentine. In fact, Valentine had emailed Respondent a statement of facts on September 7, 2016.

20. Respondent told VSB Investigator Fennessey that he spoke to Quint and other IRS agents on the phone prior to December 23, 2018, but he did not have the necessary "war document" prepared so that he could mount a defense. He denied receiving Valentine's September 7, 2016 statement of facts. Respondent stated that he did not file the petition with the Tax Court because he felt that a better strategy to challenge the Notice of Deficiency was to file another offer in compromise.

21. In October 2019, Valentine terminated Respondent's services.

Fee Statements and Collection Action

22. Respondent told VSB Investigator Fennessey that he "often bills clients irregularly depending on the client's financial circumstances." Respondent acknowledged that he did not provide Valentine with regular bills. He sent Valentine a bill dated September 29, 2019, for services through October 18, 2017, but it was not itemized.

23. After Valentine discharged Respondent in October 2019, Respondent did not issue a final itemized billing invoice until July 18, 2020. This statement covered legal services rendered from October 18, 2017, through January 2-3, 2020. Despite the fact the Respondent was no longer Valentine's counsel and thus could not charge her legal fees, Respondent billed Valentine 1.5 hours at $315.00 an hour to assemble her file and transmit it to her new counsel on January 2-3, 2020.

24. On February 10, 2021, Respondent filed a Warrant in Debt against Valentine in Prince William County Circuit Court, but it was transferred to Fairfax County Circuit Court. The Warrant in Debt sought payment of $42,942.19 with 18% interest from July 24, 2020, until paid and $74.00 in costs.

25. Respondent failed to provide any itemized bills to Valentine until the final July 18, 2020 bill. Respondent charged 14% interest, and Valentine's bill went from $12,999.81 from the September 29, 2019 billing statement to a current balance of $32,111.62. Because the bills were not itemized, Respondent's billing practices deprived Valentine of the ability to view the services rendered and dispute them if necessary.

26. Since terminating Respondent, Valentine paid her new tax counsel more than $25,000 and her counsel in Respondent's collection matter more than $9,000.

27. On May 24, 2020, Respondent entered into a Settlement Agreement with Valentine for the Fairfax County collection suit. Valentine agreed to pay $35,500 and gave up her right to receive a $3,000 attorney's fee assessed against Respondent for a discovery violation. She agreed to sign a Confessed Judgment Promissory note for $35,500 plus 18 % interest. The note provided for payments to be made to Respondent monthly from October 1, 2022, through May 1, 2025.

Trust Account

28. Respondent told VSB Investigator Fennessey that he deposited Valentine's funds into an escrow account at Burke and Herbert Bank. The VSB subpoenaed the bank records from Burke and Herbert, which showed that the account was a personal account, into which Respondent regularly deposited client funds, comingling advance legal fees with his own personal funds.

29. From November 1, 2015, through December 8, 2021, Respondent over-drafted the account four times. Since the account was not an identifiable trust account, the VSB was not notified of the overdrafts.

30. Respondent told VSB Investigator Fennessey that his invoices served as his client ledgers.

31. Respondent told VSB Investigator Fennessey that he has since opened an IOLTA account.

II. NATURE OF MISCONDUCT

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

For failing to respond, as detailed above, to Diaz and Pollack, Respondent violated:

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

For failing to inform Valentine that Respondent did not respond to Diaz and Pollack, or that he did not intend to file an appeal with the Tax Court, Respondent violated:

RULE 1.4 Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

For billing Valentine 1.5 hours at $315.00 an hour to assemble Valentine's file and transmit it to her new counsel, for failing to provide itemized bills to Valentine for over two years until the final July 18, 2020, bill and for charging interest for services that had not previously been billed, Respondent violated:

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) The lawyer's fee shall be adequately explained to the client. When the lawyer has not regularly represented the client, the amount, basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

For failing to deposit Valentine's advanced fee into an identifiable trust account subject to insufficient fund reporting, for commingling advanced fees with his own personal funds and for failing to keep client ledgers and perform required reconciliations, Respondent violated:

RULE 1.15 Safekeeping Property[2] (Pre-March 15, 2020)

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

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

(1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an

[2] For transactions occurring before March 15, 2020, the November 1, 2013, version of Rule 1.15 applies.

identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) Reconciliations.

(i) At least quarterly a reconciliation shall be made that reflects the trust account balance for each client, person or other entity.

(ii) A monthly reconciliation shall be made of the cash balance that is derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance.

(iii) At least quarterly, a reconciliation shall be made that reconciles the cash balance from (d)(3)(ii) above and the subsidiary ledger balance from (d)(3)(i).

(iv) Reconciliations must be approved by a lawyer in the law firm.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

RULE 1.15 Safekeeping Property[3] (Post-March 15, 2020)

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

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

(1) Receipts and disbursements journals for each trust account. These journals shall include, at a minimum: identification of the client or matter; date and amount of the

[3] For transactions occurring after March 15, 2020, the March 15, 2020, version of Rule 1.15 applies.

transaction; name of the payor or payee; manner in which the funds were received, disbursed, or transferred; and current balance. A checkbook or transaction register may be used in lieu of separate receipts and disbursements journals as long as the above information is included.

(2) A client ledger with a separate record for each client, other person, or entity from whom money has been received in trust. Each entry shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; source of funds received or purpose of the disbursement; and current balance.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) The following reconciliations must be made monthly and approved by a lawyer in the law firm:

(i) reconciliation of the client ledger balance for each client, other person, or entity on whose behalf money is held in trust;

(ii) reconciliation of the trust account balance, adjusting the ending bank statement balance by adding any deposits not shown on the statement and subtracting any checks or disbursements not shown on the statement. This adjusted balance must equal the balance in the checkbook or transaction register; and

(iii) reconciliation of the trust account balance ((d)(3)(ii)) and the client ledger balance ((d)(3)(i)). The trust account balance must equal the client ledger balance.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are:

1. For a period of one (1) year following entry of this Order, Respondent hereby authorizes a Virginia State Bar Investigator to conduct unannounced personal inspections of his trust account books, records, and bank records to ensure his compliance with all of the provisions of Rule 1.15 of the Rules of Professional Conduct and shall fully cooperate with the Virginia State Bar Investigator.

2. For a period of one (1) year following the entry of this Order, Respondent shall not engage in any conduct that violates the Virginia Rules of Professional Conduct, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which Respondent may be admitted to practice law. The terms contained in this paragraph shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated one or more provisions of the Rules of Professional Conduct referred to above, provided, however, that the conduct upon which such finding was based occurred within the period referred to above, and provided, further, that such ruling has become final.

If any of the terms are not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause why a Certification to the Virginia State Bar

Disciplinary Board for Sanction Determination pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia should not be imposed. 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 Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

FOURTH DISTRICT, SECTION I
SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

Allison Helen Carpenter
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on July 20, 2022, a true and complete copy of the Subcommittee Determination (Public Reprimand with Terms) was sent by certified mail to John Edward Williams, Respondent, at 3213 Duke St Ste 601, Alexandria, VA 22314, Respondent's last address of record with the Virginia State Bar, and by email to johnedwardwilliams@earthlink.net.

Laura A Booberg

Laura Ann Booberg
Assistant Bar Counsel

VIRGINIA:

BEFORE THE FOURTH DISTRICT, SECTION I SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
JOHN EDWARD WILLIAMS

VSB Docket No. 21-041-120750

AGREED DISPOSITION
PUBLIC REPRIMAND WITH TERMS

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the Virginia State Bar, by Laura Ann Booberg, Assistant Bar Counsel, and John Edward Williams, Respondent, *pro se*, hereby enter into the following agreed disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. Respondent was admitted to the Virginia State Bar ("VSB") in 1974. At all relevant times, Respondent was a member of the VSB.

2. On September 29, 2015, after receiving a marketing letter from Respondent dated August 12, 2015, Complainant, Susan Valentine ("Valentine"), met with Respondent and signed an Engagement Agreement ("the Agreement") dated September 29, 2015. The Agreement provided that Valentine would pay a $2,500 retainer fee, "which shall be applied to the final bill and any overage returned to you."

3. The Agreement further provided:

> We render on-account bills monthly, which you agree to pay promptly. Our statements generally will be prepared and mailed to you during the month fol1owing the month in which services are rendered. You agree that you will pay statements within 30 days. Any amounts not paid when due will incur interest at the rate of 1 and ½% per month. Any collection action will incur attorney's fees, and a collection expense of 1/3 of the amount owed. We reserve the right to defer providing services or to discontinue our representation if billed amounts are not paid when due.

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(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

For billing Valentine 1.5 hours at $315.00 an hour to assemble Valentine's file and transmit it to her new counsel, for failing to provide itemized bills to Valentine for over two years until the final July 18, 2020, bill and for charging interest for services that had not previously been billed, Respondent violated:

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) The lawyer's fee shall be adequately explained to the client. When the lawyer has not regularly represented the client, the amount, basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

For failing to deposit Valentine's advanced fee into an identifiable trust account subject to insufficient fund reporting, for commingling advanced fees with his own personal funds and for failing to keep client ledgers and perform required reconciliations, Respondent violated:

RULE 1.15 Safekeeping Property[2] (Pre-March 15, 2020)

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

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

(1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

[2] For transactions occurring before March 15, 2020, the November 1, 2013, version of Rule 1.15 applies.

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) Reconciliations.

(i) At least quarterly a reconciliation shall be made that reflects the trust account balance for each client, person or other entity.

(ii) A monthly reconciliation shall be made of the cash balance that is derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance.

(iii) At least quarterly, a reconciliation shall be made that reconciles the cash balance from (d)(3)(ii) above and the subsidiary ledger balance from (d)(3)(i).

(iv) Reconciliations must be approved by a lawyer in the law firm.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

RULE 1.15 Safekeeping Property[3] (Post-March 15, 2020)

(a) Depositing Funds.

[3] For transactions occurring after March 15, 2020, the March 15, 2020, version of Rule 1.15 applies.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

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

(1) Receipts and disbursements journals for each trust account. These journals shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; manner in which the funds were received, disbursed, or transferred; and current balance. A checkbook or transaction register may be used in lieu of separate receipts and disbursements journals as long as the above information is included.

(2) A client ledger with a separate record for each client, other person, or entity from whom money has been received in trust. Each entry shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; source of funds received or purpose of the disbursement; and current balance.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) The following reconciliations must be made monthly and approved by a lawyer in the law firm:

(i) reconciliation of the client ledger balance for each client, other person, or entity on whose behalf money is held in trust;

(ii) reconciliation of the trust account balance, adjusting the ending bank statement balance by adding any deposits not shown on the statement and subtracting any checks or disbursements not shown on the statement. This adjusted balance must equal the balance in the checkbook or transaction register; and

(iii) reconciliation of the trust account balance ((d)(3)(ii)) and the client ledger balance ((d)(3)(i)). The trust account balance must equal the client ledger balance.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and Respondent tender to a subcommittee of the Fourth District, Section I Committee for its approval the agreed disposition of a PUBLIC REPRIMAND WITH TERMS as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Fourth District, Section I Committee. The terms shall be met by one year from the date that the subcommittee approves this disposition and are as follows:

1. For a period of one (1) year following entry of this Order, Respondent hereby authorizes a Virginia State Bar Investigator to conduct unannounced personal inspections of his trust account books, records, and bank records to ensure his compliance with all of the provisions of Rule 1.15 of the Rules of Professional Conduct and shall fully cooperate with the Virginia State Bar Investigator.

2. For a period of one (1) year following the entry of this Order, Respondent shall not engage in any conduct that violates the Virginia Rules of Professional Conduct, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which Respondent may be admitted to practice law. The terms contained in this paragraph shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated one or more provisions of the Rules of Professional Conduct referred to above, provided, however, that the conduct upon which such finding was based occurred within the period referred to above, and provided, further, that such ruling has become final.

If Respondent fails to comply with any of the terms, Respondent agrees that the District Committee shall impose a Certification to the Virginia State Bar Disciplinary Board for Sanction

Determination pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed pursuant to ¶ 13-9.E of the Rules of the Supreme Court of Virginia.

If the agreed disposition is approved, the Clerk of the Disciplinary System shall assess costs.

Pursuant to Part 6, § IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

THE VIRGINIA STATE BAR

Laura Ann Booberg
Assistant Bar Counsel

John Edward Williams, Esquire
Respondent