



VIRGINIA:

BEFORE THE SEVENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
Steven Scott Biss

VSB Docket No. 21-070-122445

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On March 8, 2022, a meeting was held in this matter before a duly convened Seventh District Subcommittee consisting of Joseph Daniel Platania, Chair Presiding; Seth James Ragosta, Member; and Kimberly Gregg, Lay Member. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand Without Terms pursuant to Part 6, § IV, ¶ 13-15.B.4 of the Rules of Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, and Steven Scott Biss, Respondent, *pro se*.

WHEREFORE, the Seventh District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand without Terms:

I. FINDINGS OF FACT

1. Respondent Steven Scott Biss (“Respondent”) was licensed to practice law in Virginia in 1991. At all relevant times, Respondent was a member of the Virginia State Bar.
2. Respondent represented Complainant Benjamin Garrison in a lawsuit against the Anti-Defamation League (“ADL”). Garrison alleged that the ADL had defamed him in statements related to Garrison’s work as a cartoonist.
3. On July 17, 2019, Garrison and Respondent signed an engagement agreement. The agreement stated that Respondent would charge a flat fee of \$10,000, plus a contingency fee of 20% of any settlement or verdict. The agreement did not identify an hourly rate, nor did it identify any benchmarks at which Respondent would earn all or part of the flat fee.

4. Respondent deposited Garrison's \$10,000 flat fee into his trust account on July 23, 2019, and then disbursed it to himself on September 12, 2019. Respondent asserts and the bar does not dispute that when Respondent transferred the funds from his trust account, he had performed enough work to have earned the fee if he was working an hourly basis. However, because the fee was described as a flat fee, it was not deemed earned until the representation concluded.
5. Beginning on October 5, 2019, Respondent assured Garrison and his wife that he would have a draft of the complaint ready within a short timeframe, but Respondent did not comply with the time expectations he set regarding the completion and filing of the complaint. For example:
 - On October 5, 2019, Respondent said he was preparing the complaint and would have it ready for review in a few days.
 - On November 23, 2019, Respondent said that he was "chipping away at the Complaint" and "It will be done the first week of December for sure."
 - On December 14, 2019, Respondent said that he would have the complaint ready for review and filing on December 23.
 - On December 30, 2019, in response to several follow-ups from Garrison's wife, Respondent said he would be working on the case and "we are close."
 - On January 25, 2020, Respondent provided a draft of the complaint. Garrison responded the same day and said it looked "perfect."
 - On February 22, 2020, in response to concerns that the complaint had not yet been filed, Respondent said that he was looking into a venue issue but "I expect this coming week we will be able to finalize the pleading, and file."
 - On March 23, 2020, Respondent said that he was very sick, but would be able to file the complaint even though the court buildings were closed.
 - On May 9, 2020, Respondent said that he would file the complaint the following week.
 - On May 19, 2021, Respondent said that he was still thinking about venue and would file the complaint in the beginning of June.
 - On June 3, 2020, Respondent said he was still researching where to file the complaint.
 - On June 21, 2020, Respondent said he would file the complaint by the end of the month.

- Respondent filed the complaint on July 10, 2020.
6. Respondent filed the complaint before the one-year statute of limitations expired. However, Respondent was aware that Garrison believed that his reputation was continuing to suffer because he had not acted in response to the ADL's statements.

II. NATURE OF MISCONDUCT

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

RULE 1.3 Diligence

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

RULE 1.15 Safekeeping Property

- (b) Specific Duties. A lawyer shall:

(5) not disburse funds or use property of a client or of a third party with a valid lien or assignment without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

III. PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand Without Terms and Steven Scott Biss is hereby so reprimanded. 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.

SEVENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By: _____


Joseph Daniel Platania
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on March 8, 2022, a true and complete copy of the Subcommittee Determination (Public Reprimand Without Terms) was sent by certified mail to Steven Scott Biss, Respondent, at 300 W. Main Street, Suite 102, Charlottesville, Virginia 22903, Respondent's last address of record with the Virginia State Bar.


Elizabeth K. Shoenfeld
Senior Assistant Bar Counsel

VIRGINIA:

BEFORE THE SEVENTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
STEVEN SCOTT BISS

VS B Docket No. 21-070-122445

AGREED DISPOSITION
PUBLIC REPRIMAND WITHOUT TERMS

Pursuant to the Rules of Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, and Steven Scott Biss, Respondent, *pro se*, enter into the following agreed disposition arising out of this matter.

I. STIPULATIONS OF FACT

1. Respondent Steven Scott Biss (“Respondent”) was licensed to practice law in Virginia in 1991. At all relevant times, Respondent was a member of the Virginia State Bar.
2. Respondent represented Complainant Benjamin Garrison in a lawsuit against the Anti-Defamation League (“ADL”). Garrison alleged that the ADL had defamed him in statements related to Garrison’s work as a cartoonist.
3. On July 17, 2019, Garrison and Respondent signed an engagement agreement. The agreement stated that Respondent would charge a flat fee of \$10,000, plus a contingency fee of 20% of any settlement or verdict. The agreement did not identify an hourly rate, nor did it identify any benchmarks at which Respondent would earn all or part of the flat fee.
4. Respondent deposited Garrison’s \$10,000 flat fee into his trust account on July 23, 2019, and then disbursed it to himself on September 12, 2019. Respondent asserts and the bar does not dispute that when Respondent transferred the funds from his trust account, he had performed enough work to have earned the fee if he was working an hourly basis. However, because the fee was described as a flat fee, it was not deemed earned until the representation concluded.
5. Beginning on October 5, 2019, Respondent assured Garrison and his wife that he would have a draft of the complaint ready within a short timeframe, but Respondent did not comply with the time expectations he set regarding the completion and filing of the complaint. For example:

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 - Respondent filed the complaint on July 10, 2020.
6. Respondent filed the complaint before the one-year statute of limitations expired. However, Respondent was aware that Garrison believed that his reputation was continuing to suffer because he had not acted in response to the ADL’s statements.

II. NATURE OF MISCONDUCT

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

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(b) Specific Duties. A lawyer shall:

(5) not disburse funds or use property of a client or of a third party with a valid lien or assignment without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

III. PROPOSED DISPOSITION

Accordingly, bar counsel and Respondent tender to a subcommittee of the Seventh District Committee for its approval the agreed disposition of a Public Reprimand without Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Seventh District Committee.

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 Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

THE VIRGINIA STATE BAR



Elizabeth K. Shoenfeld
Senior Assistant Bar Counsel



Steven Scott Biss, Esquire
Respondent