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VIRGINIA STATE BAR
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VIRGINIA:

**BEFORE THE THIRD DISTRICT SUBCOMMITTEE, SECTION I
OF THE VIRGINIA STATE BAR**

IN THE MATTERS OF
Susan Page Allen

VSB Docket No. 21-031-121188
VSB Docket No. 22-031-124080

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On December 14, 2022 and January 3, 2023, meetings were held in these matters before a duly convened Third District Subcommittee, Section I consisting of Wyatt Jackson Taylor, Subcommittee Chair, Lee Ann Anderson, and Gordon R. Hickey. During the meetings, 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 the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Renu M. Brennan, Bar Counsel, and Susan Page Allen, Respondent, John Codd Ivins, Jr., Esquire, counsel for Respondent.

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

I. FINDINGS OF FACT

1. Respondent was admitted to the Virginia State Bar ("VSB") in 1983. At all relevant times, Respondent was a member of the VSB.
2. In 2004, Respondent formed her own practice, S. Page Allen & Associates, P.C.
3. Respondent has concentrated her four decades of practice on residential and commercial real estate closings. Respondent also handles construction escrow loans.

**CONSTRUCTION LOAN ESCROW AGREEMENTS: RESPONDENT AS
ESCROW AGENT FOR CONSTRUCTION ESCROW LOANS BETWEEN
TUCKAHOE FUNDING, LLC AND JOSHUA ROMANO AND ROMANO'S LLCs**

4. From 2015 to 2017, Respondent acted as the escrow agent ("Escrow Agent") for at least six (6) construction loans on the Subject Properties¹ from hard money lender² Tuckahoe Funding, LLC ("Tuckahoe")³ to Joshua Romano and/or one or more of Romano's limited liability companies⁴. The principals of Tuckahoe are Rhett and Brie Starke. Rhett Starke ("Starke") handled the Subject Transactions for Tuckahoe. Romano was then a real estate developer who acquired, rehabilitated, and sold real estate in Richmond. The purpose of Tuckahoe's loans was for the purchase and rehabilitation of houses in the Richmond metropolitan area.
5. Respondent represented Tuckahoe, Starke, and Romano prior to serving as the Escrow Agent. Respondent represented Romano on house-flipping related purchases beginning

¹ 2000 Prince George Road, Richmond, VA
2520 Stratford Road, Richmond, VA
3414 West Franklin Street, Richmond, VA
4110 Grove Avenue, Richmond, VA
2624 Idlewood Avenue, Richmond, VA and
701 North 35th Street, Richmond, VA.

² A **hard money loan** is a specific type of asset-based loan financing through which a borrower receives funds secured by real property. Hard money loans are typically issued by private investors or companies. Interest rates are typically higher than conventional commercial or residential property loans because of the higher risk and shorter duration of the loan. https://en.wikipedia.org/wiki/Hard_money_loan. As set forth in Passmore's Statement of Facts, Exhibit A, the hard money loans to Romano were generally made for shorter terms and at much higher interest rates than conventional commercial loans.

³ Tuckahoe's business includes lending money to third party real estate developers who acquire, rehabilitate, and sell real estate in the Richmond metropolitan area.

⁴ Romano's businesses included Cobblestone Development Group; CNJ Ventures, LLC; and Falling Water Construction Design, LLC. Romano and his businesses are collectively referred to as Romano.

in 2013, the same year Respondent employed paralegal Lindsey Passmore. Passmore introduced Starke to Romano.

6. Pursuant to Construction Loan Escrow Agreements⁵ between Tuckahoe and Romano, Respondent's primary duty as Escrow Agent was to safeguard Tuckahoe's funds in her trust account. Respondent could only release draws or funds upon written authorization from Starke.
7. Pursuant to Construction Loan Escrow Agreement regarding the Subject Properties, Respondent could only release draws for the properties and purposes for which the funds were lent.
8. As set forth in more detail below, Respondent's failure to supervise her staff and properly manage one of her trust accounts, from which Respondent allowed Passmore to originate wire transfers, resulted in the misappropriation of approximately \$1.2 million of Tuckahoe's funds between 2015 and 2017. See Exhibit A, Passmore's Statement of Facts in the criminal proceedings.
9. Funds for the Subject Properties were drawn within a few weeks of property purchase, instead of as work progressed with Starke's written authorization. Routine supervision and reviews by Respondent should have alerted Respondent to the irregularities. Only one of the Subject Properties had any work done.

⁵ The Construction Loan Agreements provided that the Escrow Amount, which Respondent maintained, "shall remain and be considered the property of the Lender for the purposes herein recited and be held and disbursed solely and only in accordance with the provisions of this Agreement."

The Stratford and Idlewood properties were treated the same as the other construction loans, but there were no construction loan agreements for these two properties.

RESPONDENT'S LAW FIRM, STAFF, AND STRUCTURE FROM 2015 TO 2017

10. From 2015 to 2017, Respondent had two associates who worked for Respondent for a short time. They had no involvement in the subject transactions.
11. Respondent was the only attorney who had any involvement with the Construction Loan Agreements and six Subject Properties.
12. Respondent maintained three or more real estate trust accounts ("Trust Accounts").
13. From 2015 to 2017, Respondent's staff included two paralegals, Passmore and TW, who did Respondent's closings, two other legal assistants, an office manager who reconciled Respondent's Trust Accounts, and a receptionist.
14. At all relevant times, Passmore's daily responsibilities included processing real estate transactions, ordering the deeds and title work, preparing and drafting the loan documents and settlement statements using Respondent's templates, and getting files ready for closing.
15. Respondent authorized Passmore to write checks, receive deposits, and handle other monetary transactions related to real estate closings.
16. Respondent gave Passmore access to and allowed Passmore to originate wire transfers of monies held in Respondent's Trust Accounts.
17. Respondent, Passmore, and TW each primarily used the same respective account day-to-day, with Respondent wiring funds from one account, Trust Account 1, and each of the paralegals generally wiring from one of the other accounts. TW used Trust Account 2, and Passmore used Allen First Capital R/E Trust Account 3 ending in 9976 ("Trust Account 3"). Passmore used Trust Account 3 for all of the unauthorized disbursements.

18. After Passmore originated a wire transfer, TW was to authorize the wire before the bank processed the transaction.
19. TW assumed all wire transfers she authorized for Passmore were legitimate.
20. Respondent did not require that Respondent review or authorize the transaction.
21. Passmore and Romano were good friends and they socialized together. Respondent was aware of Passmore's friendship with Romano.
22. Romano employed Passmore's husband.
23. Additionally, at some point after Passmore went to work for Respondent, Respondent allowed Passmore to do part-time accounting work for Romano. According to Passmore's testimony, Romano paid Passmore between \$2,500 and \$3,000 per month for this part-time work.
24. Respondent did not place any additional safeguards or procedures on Passmore with respect to Respondent's Trust Accounts after Passmore began working for Romano, nor did Respondent make any additional effort to supervise Passmore.
25. Instead, Respondent allowed Passmore to be the primary paralegal handling the disbursement of funds to Romano.
26. Respondent did not require or request that Starke or other lenders send her an email to authorize draws. She allowed them to send the draw authorizations only to Passmore.
27. Respondent has explained that as rehabbers completed construction, hard money lenders authorized draws based on inspections or photos from the lenders. The lender would authorize disbursement of a certain amount. Per Respondent, Starke dealt primarily with Passmore. Romano would request a draw by email to Passmore and Starke. Starke would then respond to authorize or reject the disbursement.

28. From 2015 to December 2017, Respondent did not review her records and files to ensure that (1) Romano made the required requests for disbursements or (2) the requests were for rehabilitation of the Subject Properties as required by the Construction Loan Escrow Agreements. Moreover, and critically, Respondent did not review her records to ensure Starke authorized a single disbursement.

RESPONDENT'S FAILURE TO SAFEGUARD TUCKAHOE'S FUNDS

29. By the fourth quarter of 2017, Respondent should have held at least \$1.2 million in escrow regarding the Subject Properties.
30. From September 2015 to spring 2017, however, Passmore disbursed to Romano, without written authority to do so, approximately \$1.2 million of Tuckahoe's escrowed funds. In addition to disbursing Tuckahoe's funds without authority to do so, Passmore sent emails to Starke falsely reporting the escrow balances on the six properties. As a result of Passmore's unauthorized disbursements to Romano, Starke lost \$1.2 million.
31. For almost two years, Respondent did not review the accounts or other records associated with the escrowed funds sufficiently to determine that Passmore was disbursing \$1.2 million without the required written authorizations from Starke.
32. Respondent, as the sole attorney working on these matters, and as the managing and often the only attorney in her office, was responsible for protecting client or fiduciary funds under her control, for disbursing those funds only to the person or entity entitled to receive them, for reconciling her escrow account monthly, and for ensuring that non-lawyer staff complied with the same professional obligations.
33. Respondent's obligations to protect client or fiduciary funds, to disburse funds only to the person or entity entitled to receive them, to reconcile her escrow account with the bank

statements, as well as to reconcile the individual client ledgers, and to supervise non-lawyer staff, are non-delegable.

34. Respondent, in the course of her ethical duty to supervise Passmore, did not review the transactions that led to the unauthorized disbursements made by Passmore to Romano.
35. As the only attorney in the firm, Respondent did not exercise sufficient oversight over the non-lawyer staff's handling of the firm's Trust Accounts, which would have revealed Passmore's unauthorized disbursements to Romano.
36. In December 2017, Romano accused Respondent's firm of stealing his money. As a result of Romano's accusations, Respondent compared her bank statements to her ledgers and determined that, prior to August 2017, the funds were wired from Respondent's Trust Account 3 to Romano.
37. According to Respondent, "Until these events and her review of the Romano property files, [Respondent] was unaware of this, having not been involved with the subject wire transfers about which Tuckahoe later contended were made without proper approval or direction." In her response to the bar complaint, Respondent explained:

As a part of her review, [Respondent] not only reviewed the Subject Properties Single Ledger Reports, she compared those to the pertinent escrow documentation, including all pertinent bank records with regard to the escrows as well as all pertinent wire advices/confirmations with regard thereto and was able to determine that, as shown by the respective Subject Properties Single Ledger Reports, the funds associated with the Subject Disbursements were, in fact, disbursed as shown on each of the Reports.

38. Respondent did not sufficiently review reconciliations of the firm's Trust Accounts. Respondent stated in her response to the bar complaint that "the office manager was, and continues to be, responsible for the monthly reconciliation of the Practice's trust accounts, which included, and still include, a three-way reconciliation process..." The

office manager worked with Passmore whenever there was a reconciling issue to bring the escrow account to balance. In her response to the bar complaint, Respondent further explained:

Thus, throughout the period the Subject Disbursements were being disbursed without [Respondent's] knowledge with regard to the Subject Properties, when the Practice conducted its routine monthly account reconciliations, such did not reveal any issues with regard thereto because Ms. Passmore apparently entered all of the Subject Disbursements into ProTrust, [a tool used by the Firm to properly track the funds in its trust accounts] thereby ensuring that the Subject Properties Single Ledger Reports matched the data reflected in the Proofing Register and would, therefore, reconcile back to the monthly bank statements.

39. Respondent talked to Passmore who confessed to Respondent that she disbursed money held in Respondent's Trust Account to Romano without Tuckahoe's knowledge or authorization.
40. After discovering the unauthorized disbursements, Respondent continued to employ Passmore, who offered to resign, for two-and-a-half years. Respondent explained her logic in continuing to employ Passmore after the unauthorized disbursements in excess of \$1 million:

Well, I didn't ever really know exactly what had happened. And at that time, I had already been trying to hire another real estate paralegal because we were short-staffed, and Lindsey was an integral part of, you know, my staff that interacted with other clients... And I had some concerns that if I just fired her immediately how that could be a detriment to my other clients because there wouldn't be somebody there to do the work. I put additional protocols in place so that I could make sure that if in fact she had transferred money that she wasn't authorized that it wouldn't happen again.

41. Respondent's revised protocol is her request to lenders to email authorization of draws to Passmore, Respondent, and two other paralegals in the office. Previously the lenders had just been sending the authorizations to Passmore.

42. Tuckahoe fired Respondent after learning of the disbursements made without request to or authorization from Starke.
43. In 2018, Tuckahoe brought claims against Respondent for mismanagement of the funds Respondent was to safeguard.
44. In 2019, Respondent settled Tuckahoe's claims with payments of \$525,000 out of her funds, and an additional \$75,000 from her malpractice carrier.
45. As a result of Passmore's unauthorized disbursements to Romano and their related activities, both Passmore and Romano were charged with federal crimes, including wire fraud and conspiracy to commit fraud. In October 2022, Passmore pled guilty to one count of Conspiracy to Commit Wire Fraud⁶. In October 2022, after three days of evidence including several hours of testimony by Respondent and testimony by Passmore, a jury found Romano guilty of Conspiracy to Commit Wire Fraud and three counts of Wire Fraud.
46. On November 30, 2022, Passmore was sentenced to 14 months in prison, and the Court ordered that Passmore must pay restitution in the amount of \$1,206,953.27 jointly and severally with Joshua Brian Romano. Respondent is entitled to restitution after Tuckahoe is paid in full.

RESPONDENT'S CONTINUED LACK OF OVERSIGHT

47. Unrelated to the transactions between Tuckahoe and Romano, the VSB's investigation revealed that in 2020, on a few matters, Respondent transferred overpayments of real estate taxes on closings she had handled from trust to operating without authorization.

⁶ The penalty for this offense is a maximum term of 20 years' imprisonment, a maximum fine of the greater of \$250,000 or twice the gross gain or loss from the offense, full restitution, a mandatory \$100 special assessment, and a maximum term of three years' supervised release. The government has not objected to the Presentence Investigation Report advisory guideline range of 27-33 months' imprisonment.

II. NATURE OF MISCONDUCT

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

By failing to safeguard Tuckahoe's funds in her escrow account, and by failing to return the funds being held for Tuckahoe when Tuckahoe demanded the return of the funds in December 2017, Respondent violated Rule 1.15(b)(4).

RULE 1.15 Safekeeping Property

(b) Specific Duties. A lawyer shall:

(4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer that such person is entitled to receive; and

By disbursing funds to Romano without Tuckahoe's consent, Respondent violated 1.15(b)(5).

RULE 1.15 Safekeeping Property (in effect November 1, 2013 to March 15, 2020)

(b) Specific Duties. A lawyer shall:

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

By transferring some overpayments of taxes to her operating account without authorization of the parties' entitled to the funds, Respondent violated 1.15(b)(5).

RULE 1.15 Safekeeping Property (in effect as of March 15, 2020)

(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.

By failing to ask Passmore or otherwise obtain the written authorizations for the disbursements, to ensure that the disbursements from Trust Account 3 were explained and supported by adequate records, which should have included the written authorization from Stark,

and thus failing to ascertain that Tuckahoe had not authorized the disbursements for almost two years, Respondent violated Rule 1.15(d)(3) and (4).

RULE 1.15 Safekeeping Property

(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.

(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.

By all of the foregoing, Respondent violated Rules 5.3(b) and (c)(2).

By failing to make reasonable efforts to ensure that Passmore's conduct was consistent with Respondent's obligations under the Construction Loan Escrow Agreement,

By failing to supervise Passmore, when her primary purpose was to safeguard money in escrow for Tuckahoe,

By organizing her law firm's structure in a way that lacked procedural safeguards to protect client funds, making it easy for Passmore and Romano to exploit that structure and perpetuate their criminal scheme,

By allowing Passmore to make disbursements to Romano without first obtaining Tuckahoe's authorization,

By failing to discover, for almost two years, that Passmore did not have the necessary authorization for the disbursements or any documentation assuring Respondent that the disbursements were legitimate, in the performance of her routine, at least monthly, reconciliations, and

By failing to review her trust account ledger(s) showing disbursements, Respondent violated Rule 5.3(c)(2).

By not implementing additional, or any, safeguards on Passmore after Respondent allowed Passmore to work for Romano, Respondent violated Rule 5.3(b) and (c).

RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

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

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

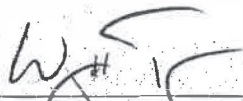
(2) the lawyer is a partner or has managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows or should have known of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

III. PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand Without Terms and Susan Page Allen 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.

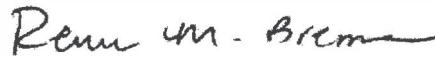
THIRD DISTRICT SUBCOMMITTEE,
SECTION I OF THE VIRGINIA STATE BAR

By: _____


Wyatt Jackson Taylor
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on January 4, 2023, a true and complete copy of the Subcommittee Determination (Public Reprimand Without Terms) was sent by first class and certified mail to Susan Page Allen, Respondent, at Susan Page Allen, Esq., S. Page Allen & Associates, P.C., 11521-E Midlothian Turnpike, North Chesterfield, VA 23235-4764, Respondent's last address of record with the Virginia State Bar, and emailed to: pallen@pageallenlaw.com, and by first class mail, postage prepaid to John Codd Ivins, Jr., counsel for Respondent, at Hirschler Fleischer, P.O. Box 500, Richmond, VA 23218-0500, and emailed to: jivins@hirschlerlaw.com.



Renu M. Brennan
Bar Counsel

VIRGINIA:

**BEFORE THE THIRD DISTRICT SUBCOMMITTEE, SECTION I
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
SUSAN PAGE ALLEN**

**VS B Docket No. 21-031-121188
VS B Docket No. 22-031-124080**

**AGREED DISPOSITION
PUBLIC REPRIMAND WITHOUT TERMS**

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the Virginia State Bar, by Renu M. Brennan, Bar Counsel, and Susan Page Allen, Respondent, and John Codd Ivins, Jr., Esquire, counsel for Respondent, hereby enter into the following agreed disposition arising out of the referenced matters.

I. STIPULATIONS OF FACT

1. Respondent was admitted to the Virginia State Bar (“VSB”) in 1983. At all relevant times, Respondent was a member of the VSB.
2. In 2004, Respondent formed her own practice, S. Page Allen & Associates, P.C.
3. Respondent has concentrated her four decades of practice on residential and commercial real estate closings. Respondent also handles construction escrow loans.

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6. Pursuant to Construction Loan Escrow Agreements⁵ between Tuckahoe and Romano, Respondent’s primary duty as Escrow Agent was to safeguard Tuckahoe’s funds in her

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38. Respondent did not sufficiently review reconciliations of the firm's Trust Accounts. Respondent stated in her response to the bar complaint that "the office manager was, and continues to be, responsible for the monthly reconciliation of the Practice's trust accounts, which included, and still include, a three-way reconciliation process..." The office manager worked with Passmore whenever there was a reconciling issue to bring the escrow account to balance. In her response to the bar complaint, Respondent further explained:

Thus, throughout the period the Subject Disbursements were being disbursed without [Respondent's] knowledge with regard to the

Subject Properties, when the Practice conducted its routine monthly account reconciliations, such did not reveal any issues with regard thereto because Ms. Passmore apparently entered all of the Subject Disbursements into ProTrust, [a tool used by the Firm to properly track the funds in its trust accounts] thereby ensuring that the Subject Properties Single Ledger Reports matched the data reflected in the Proofing Register and would, therefore, reconcile back to the monthly bank statements.

39. Respondent talked to Passmore who confessed to Respondent that she disbursed money held in Respondent's Trust Account to Romano without Tuckahoe's knowledge or authorization.
40. After discovering the unauthorized disbursements, Respondent continued to employ Passmore, who offered to resign, for two-and-a-half years. Respondent explained her logic in continuing to employ Passmore after the unauthorized disbursements in excess of \$1 million:

Well, I didn't ever really know exactly what had happened. And at that time, I had already been trying to hire another real estate paralegal because we were short-staffed, and Lindsey was an integral part of, you know, my staff that interacted with other clients... And I had some concerns that if I just fired her immediately how that could be a detriment to my other clients because there wouldn't be somebody there to do the work. I put additional protocols in place so that I could make sure that if in fact she had transferred money that she wasn't authorized that it wouldn't happen again.

41. Respondent's revised protocol is her request to lenders to email authorization of draws to Passmore, Respondent, and two other paralegals in the office. Previously the lenders had just been sending the authorizations to Passmore.
42. Tuckahoe fired Respondent after learning of the disbursements made without request to or authorization from Starke.
43. In 2018, Tuckahoe brought claims against Respondent for mismanagement of the funds Respondent was to safeguard.

44. In 2019, Respondent settled Tuckahoe's claims with payments of \$525,000 out of her funds, and an additional \$75,000 from her malpractice carrier.
45. As a result of Passmore's unauthorized disbursements to Romano and their related activities, both Passmore and Romano were charged with federal crimes, including wire fraud and conspiracy to commit fraud. In October 2022, Passmore pled guilty to one count of Conspiracy to Commit Wire Fraud⁶. In October 2022, after three days of evidence including several hours of testimony by Respondent and testimony by Passmore, a jury found Romano guilty of Conspiracy to Commit Wire Fraud and three counts of Wire Fraud.
46. On November 30, 2022, Passmore was sentenced to 14 months in prison, and the Court ordered that Passmore must pay restitution in the amount of \$1,206,953.27 jointly and severally with Joshua Brian Romano. Respondent is entitled to restitution after Tuckahoe is paid in full.

RESPONDENT'S CONTINUED LACK OF OVERSIGHT

47. Unrelated to the transactions between Tuckahoe and Romano, the VSB's investigation revealed that in 2020, on a few matters, Respondent transferred overpayments of real estate taxes on closings she had handled from trust to operating without authorization.

II. NATURE OF MISCONDUCT

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

⁶ The penalty for this offense is a maximum term of 20 years' imprisonment, a maximum fine of the greater of \$250,000 or twice the gross gain or loss from the offense, full restitution, a mandatory \$100 special assessment, and a maximum term of three years' supervised release. The government has not objected to the Presentence Investigation Report advisory guideline range of 27-33 months' imprisonment.

By failing to safeguard Tuckahoe's funds in her escrow account, and by failing to return the funds being held for Tuckahoe when Tuckahoe demanded the return of the funds in December 2017, Respondent violated Rule 1.15(b)(4).

RULE 1.15 Safekeeping Property

(b) Specific Duties. A lawyer shall:

- (4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer that such person is entitled to receive; and

By disbursing funds to Romano without Tuckahoe's consent, Respondent violated 1.15(b)(5).

RULE 1.15 Safekeeping Property (in effect November 1, 2013 to March 15, 2020)

(b) Specific Duties. A lawyer shall:

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

By transferring some overpayments of taxes to her operating account without authorization of the parties' entitled to the funds, Respondent violated 1.15(b)(5).

RULE 1.15 Safekeeping Property (in effect as of March 15, 2020)

(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.

By failing to ask Passmore or otherwise obtain the written authorizations for the disbursements, to ensure that the disbursements from Trust Account 3 were explained and supported by adequate records, which should have included the written authorization from Stark, and thus failing to ascertain that Tuckahoe had not authorized the disbursements for almost two years, Respondent violated Rule 1.15(d)(3) and (4).

RULE 1.15 Safekeeping Property

(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.

- (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.

By all of the foregoing, Respondent violated Rules 5.3(b) and (c)(2).

By failing to make reasonable efforts to ensure that Passmore's conduct was consistent with Respondent's obligations under the Construction Loan Escrow Agreement,

By failing to supervise Passmore, when her primary purpose was to safeguard money in escrow for Tuckahoe,

By organizing her law firm's structure in a way that lacked procedural safeguards to protect client funds, making it easy for Passmore and Romano to exploit that structure and perpetuate their criminal scheme,

By allowing Passmore to make disbursements to Romano without first obtaining Tuckahoe's authorization,

By failing to discover, for almost two years, that Passmore did not have the necessary authorization for the disbursements or any documentation assuring Respondent that the disbursements were legitimate, in the performance of her routine, at least monthly, reconciliations, and

By failing to review her trust account ledger(s) showing disbursements, Respondent violated Rule 5.3(c)(2).

By not implementing additional, or any, safeguards on Passmore after Respondent allowed Passmore to work for Romano, Respondent violated Rule 5.3(b) and (c).

RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

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

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(2) the lawyer is a partner or has managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows or should have known of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

III. PROPOSED DISPOSITION

Accordingly, Bar Counsel and Respondent tender to a subcommittee of the Third District Committee, Section I 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 Third 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 the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

THE VIRGINIA STATE BAR

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Renu M. Brennan
Bar Counsel

Susan Page Allen

Susan Page Allen, Esquire
Respondent

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