

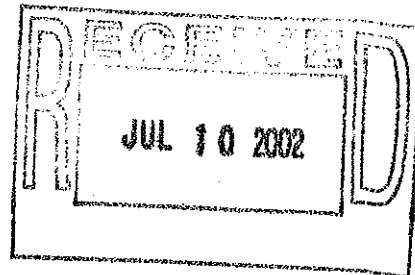
STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 2nd of July, 2002, the following order was made and entered:

Lawyer Disciplinary Board, Complainant

vs.) No. 29462

Wendy G. Alke, a member of The West Virginia State Bar, Respondent



On a former day, to-wit, June 4, 2002, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Timothy L. Sweeney, its chairperson, pursuant to Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition recommending that the respondent, Wendy G. Alke: (1) be publicly reprimanded; (2) be required to complete six hours of continuing legal education in the area of ethics by December, 2002, in addition to her otherwise required continuing legal education requirements; (3) be required to perform fifteen hours of pro bono work within her community, said pro bono work to be approved by the Office of Lawyer Disciplinary Counsel; (4) undergo monthly monitoring of her office, escrow and trust accounts by an attorney approved by the Office of Lawyer Disciplinary Counsel, with the purpose of the monitoring to ensure that respondent's accounts are properly maintained and respondent's conduct does not recur. The monitoring attorney be required to provide a written report of his/her findings to the Office of Disciplinary Counsel on a quarterly basis; (5) be required to provide quarterly statements to the Office of Disciplinary Counsel for a period of two years, accounting for the receipt and disbursement of all client funds during the quarter; (6) be required to

provide to the Office of Lawyer Disciplinary Counsel for a period of two years, an annual accounting, performed by an outside certified public accountant, of all client funds received and disbursed for the year; and (7) be required to reimburse the Lawyer Disciplinary Board for the costs incurred in the investigation of this matter.

Upon consideration whereof, the Court is of opinion to and doth hereby adopt the aforesaid recommendations in part. It is hereby ordered that the respondent, Wendy G. Alke: (1) be, and she hereby is, publicly reprimanded; (2) shall complete six hours of continuing legal education in the area of ethics by December, 2002, in addition to her otherwise required continuing legal education requirements; (3) shall perform fifteen hours of pro bono work within her community, said pro bono work to be approved by the Office of Lawyer Disciplinary Counsel; (4) shall undergo monthly monitoring of her office, escrow and trust accounts by an attorney approved by the Office of Lawyer Disciplinary Counsel, with the purpose of the monitoring to ensure that respondent's accounts are properly maintained and respondent's conduct does not recur. The monitoring attorney shall provide a written report of his/her findings to the Office of Disciplinary Counsel on a quarterly basis; (5) shall provide quarterly statements to the Office of Disciplinary Counsel for a period of two years, accounting for the receipt and disbursement of all client funds during the quarter; and (6) shall provide to the Office of Lawyer Disciplinary Counsel for a period of two years, an annual accounting, performed by an outside certified public accountant of all client funds received and disbursed for the year, all for violating Rules 1.15(a) and 8.4(c) of the Rules of Professional Conduct.

Chief Justice Davis would have assessed the respondent costs incurred in the investigation of this matter. Chief Justice Davis believes that under the express provisions of Rule 3.12 of the Rules of Lawyer Disciplinary Procedure, which require the Clerk of the Supreme Court to establish a briefing schedule and provide notice to the parties whenever the Court does not concur with the recommended disposition of a lawyer disciplinary action, and basic due process principles, it is clear that this Court does not have discretion to modify an action or imposition of costs without affording all parties an opportunity to respond. Indeed, "[t]he most fundamental due process protections are notice and an opportunity to be heard." *Norfolk and Western Ry. Co. vs. Sharp*, 183 W. Va. 283, 285, 395 S.E.2d 527, 529 (1990). In accordance with these legal dictates, she opines this case should have either been disposed of in the manner recommended by the parties or docketed for the submission of briefs by both parties.

Service of an attested copy of this order upon all parties shall constitute sufficient notice of the contents herein.

A True Copy

Attest: _____


Clerk, Supreme Court of Appeals