

VIRGINIA:

BEFORE THE SECOND DISTRICT COMMITTEE, SECTION 1
OF THE VIRGINIA STATE BAR

IN THE MATTER OF CARL CHRISTEN LA MONDUE
VSB DOCKET NO. 12-021-090850

**DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)**

On September 12, 2013, a hearing in this matter was held before a duly convened Second District Committee panel consisting of Robert J. Krask, Esquire, Chair, Bruce D. Jones, Jr., Member, Kamala H. Lannetti, Member, Lisa L. Thatch, Member, Kenneth N. Whitehurst, III, Member, Martha J. Goodman, Lay Member, and Mark B. Shaw, Lay Member ("Panel").

The Respondent appeared in person. The Virginia State Bar ("Bar") appeared through Assistant Bar Counsel M. Brent Saunders.

The matter proceeded upon the Charge of Misconduct dated May 15, 2013, setting forth allegations that the Respondent violated Rules of Professional Conduct 1.5 (a) and (b) Fees; 1.15(a) Safekeeping Property; 1.16(d) Declining Or Terminating Representation; and 8.4(a) Misconduct.

The Chair swore the court reporter and polled each member of the Panel as to whether they had any personal or financial interest that might affect or reasonably be perceived to affect their ability to be impartial. Upon receiving answers in the negative, and upon the Chair affirming that he had no such interest, the Chair advised the parties of the hearing procedures and summarized the Charge of Misconduct.

The Panel admitted the Bar's Exhibits numbered 1-4 and Respondent's Exhibit numbered 1 without objection.

The Panel accepted the parties' stipulation of all of the facts alleged in the Charge of Misconduct dated May 15, 2013.

Following opening statements on behalf of the parties, the Bar presented its witnesses.

Thereafter, the Respondent presented his evidence, including Respondent's Exhibits numbered 2, 3, and 5-8, which the Panel admitted without objection.

At the conclusion of all of the evidence, the parties presented closing arguments, and the Panel adjourned to deliberate on the allegations of misconduct charged in this case. Following deliberations, the Panel unanimously found by clear and convincing evidence the following material facts:

1. At all times relevant hereto, Carl Christen La Mondue ("Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The complaint in this case was filed by Laticia Minaya ("Minaya"), who hired Respondent in June 2011 to represent her in a custody/visitation modification matter in the Norfolk Juvenile and Domestic Relations District Court.
3. The written fee agreement Respondent prepared and Minaya signed on June 1, 2011 stated Respondent's "initial . . . fee" was \$1,500.00 and that Minaya would be billed hourly at various stated rates ranging from \$110.00 per hour to \$250.00 per hour. The written fee agreement also included the following language:

"I UNDERSTAND AND AGREE THAT THE MINIMUM ADVANCE AGAINST FEES DUE FOR LEGAL SERVICES TO BE RETAINED IN THIS CASE WILL BE \$500.00 . . ."

I understand and agree that all advance fees and/or retainers are considered earned fees and are **non-refundable** after work has begun on my case."

4. Despite the terms of the written fee agreement, Respondent told Minaya contemporaneously with the presentation of the written fee agreement that he would charge a flat fee of \$1,500.00 for the representation.
5. Respondent testified that he handwrote his firm's hourly rates in the written fee agreement to put Minaya on notice of the hourly rates she would be billed in the event

she terminated the representation or later disputed the fee. The written fee agreement does not disclose that the fee arrangement would convert from a flat fee to an hourly fee structure, and Respondent did not otherwise disclose or explain that to Minaya.

6. Minaya made four payments to Respondent totaling \$1,001.00 as follows:

- \$250.00 on June 1, 2011
- \$250.00 on June 3, 2011
- \$250.00 on July 6, 2011
- \$251.00 on August 5, 2011

7. On invoices sent to Minaya, Respondent designated the first payment as a "Consultation Fee," the second and third payments as "Partial Retainer" payments, and the fourth payment as "Payment."

The Panel unanimously found that the evidence established under the clear and convincing evidentiary standard violations of the following provisions of the Virginia Rules of Professional Conduct on the part of Respondent:

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable . . .

(b) The lawyer's fee shall be adequately explained to the client . . .

The Panel unanimously found that the Rule 1.15(a), 1.16(d) and 8.4(a) violations were not proven by clear and convincing evidence, and accordingly dismissed those charges.

THEREAFTER, the hearing proceeded to the sanctions phase. The Panel admitted the Bar's Exhibit numbered 5 and Respondent's Exhibit numbered 9 without objection. Following the presentation of closing arguments, the Panel adjourned to deliberate as to an appropriate sanction. **AFTER DUE CONSIDERATION** of the evidence, including the nature of the ethical misconduct committed by Respondent and his prior disciplinary record, and arguments of the parties, the Panel reached the unanimous decision to offer the Respondent an opportunity to comply with certain terms

and conditions, compliance with which will be a predicate for the disposition of a **Public Reprimand with Terms** of this complaint. The terms and conditions are that by October 10, 2013, Respondent shall provide to M. Brent Saunders, the Assistant Bar Counsel assigned to this case:

1. Written certification that he has fully reviewed Legal Ethics Opinions 510, 1246, 1322, 1370 and 1606.

AND

2. A modified fee agreement for his law firm that in the opinion of the Virginia State Bar Ethics Department conforms with all pertinent provisions of the Virginia Rules of Professional Conduct.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If the terms and conditions are not met by the specified date, the alternative disposition shall be a Certification for Sanction Determination.

Pursuant to Part Six, Section IV, Paragraph 13-9 of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System of the Virginia State Bar shall assess costs.

These proceedings were recorded by Biggs & Fleet Court Reporters, 125 St. Paul's Blvd., Ste. 309, Norfolk, VA 23510, telephone number (757) 622-2049.

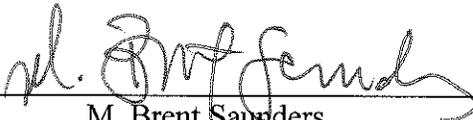
Entered this 17th day of September, 2013

SECOND DISTRICT COMMITTEE, SECTION 1

By 
Robert J. Krask, Chair

CERTIFICATE OF SERVICE

I certify that on the 19th day of SEPTEMBER, 2013, I caused to be mailed by certified mail a true and correct copy of the foregoing District Committee Determination (Public Reprimand With Terms) to Carl Christen La Mondue, Respondent, at his last address of record with the Virginia State Bar: La Mondue Law Firm, P.L.C., Suite 400, 500 East Plume Street, Norfolk, VA 23510.



M. Brent Saunders
Assistant Bar Counsel