

VIRGINIA:

BEFORE THE FIFTH DISTRICT SUBCOMMITTEE, SECTION III OF THE VIRGINIA STATE BAR

IN THE MATTER OF
Francis Allen Minor

VSB Docket No. 11-053-087142

**SUBCOMMITTEE DETERMINATION
PUBLIC REPRIMAND WITHOUT TERMS**

On 3 December 2013 a meeting was held in this matter before a duly convened Fifth District Subcommittee, Section III consisting of Christie A. Leary, Chair, Garth M. Wainman, Member, and Patricia C. Palmer, 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 the Supreme Court of Virginia. The agreed disposition was entered into by the Virginia State Bar, by Prescott L. Prince, Assistant Bar Counsel, and Francis Allen Minor, Respondent, *pro se*.

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

1. FINDINGS OF FACT

1. At all times relevant hereto, Francis Allen Minor ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. During the time period encompassed by the events referred to below, the Respondent worked in concert with one Jesus Padilla, Jr., a nonlawyer who at times presented himself as a lawyer and as President of "Latin Unity" in Herndon, Virginia, to members of the Latino community who were in need of criminal and traffic defense representation. The

Respondent also worked with one Edith Mobley, a nonlawyer who presented herself to prospective clients as an attorney and president of "Latinos Unidos."

3. Mr. Padilla and Ms. Mobley quoted legal fees, collected legal fees, and engaged the Respondent to represent individuals in need of legal services. Mr. Padilla, on at least one occasion presented a photograph of the Respondent to a client so that the client could recognize the Respondent on the client's court date. Mr. Padilla, Ms. Mobley, and their respective organizations were not authorized to maintain attorney trust accounts and did not do so. Sums were collected by these individuals and their organizations with the Respondent's knowledge as advances of his legal fees. As detailed below, even when such fee advances were given to the Respondent, he did not deposit them to an attorney trust account because he did not maintain one.
4. On or about July 12, 2009, Ms. Susana Escamilla met with Mr. Padilla. Ms. Escamilla was seeking representation for her husband, who was then facing both misdemeanor and felony charges arising from a traffic incident in Prince William County, Virginia. Mr. Padilla stated that Latin Unity had attorneys who worked for them, and further informed Ms. Escamilla that the legal fees for her husband's defense would be between \$3,000 and \$3,500.
5. On or about July 12, 2009, Ms. Escamilla paid Mr. Padilla \$1,000 to commence her husband's legal representation, and was assured by Mr. Padilla that an attorney would request a bond motion on her husband's behalf as soon as possible. Ms. Escamilla appeared on July 24, 2009, for a bond motion which she was informed had been scheduled by the Respondent, but the Respondent did not appear.

6. Another attorney was subsequently engaged to handle Ms. Escamilla's husband's defense. Two checks totalling what had been paid to Mr. Padilla were issued to the successor attorney: check numbered 5561, dated August 5, 2009, drawn on the Bank of America account of Latin Unity, LLC, in the sum of \$800.00, which contained in the memo section "Refund—Mr. Francis Minor, Esq; and check numbered 5570, dated August 25, 2009, drawn on the Bank of America account of Latin Unity, LLC, in the sum of \$200.00, which contained in the memo section "Mr. Francis Minor Esq. Refund".
7. On or about December 22, 2007, Mr. Luis H. Guillen sought legal assistance from Latin Unity for defense of a charge of driving on a suspended operator's license, then pending in the Fairfax County General District Court. Mr. Guillen spoke to Mr. Padilla, and was assured that Mr. Padilla could assist him with his case, creating the inference that Mr. Padilla was himself an attorney.
8. Mr. Padilla informed Mr. Guillen that the cost of his legal defense would be \$500. Mr. Guillen paid Mr. Padilla \$300 on December 22, 2007, by check of that date, numbered 113, drawn on Mr. Guillen's account at the Chevy Chase Bank, and made payable to the order of Jesus Padilla. Mr. Guillen arrived at the General District Court for his trial on December 27, 2007. Mr. Padilla was present and introduced Mr. Guillen to the Respondent, stating to Mr. Guillen that the Respondent would be Mr. Guillen's attorney. Mr. Guillen was surprised by this revelation because he had not theretofore either met the Respondent or spoken to him before the date of trial. On the date of trial, December 27, 2007, Mr. Guillen tendered a check bearing that date, numbered 114, in the sum of \$200, and made payable to the order of the Respondent.

9. On December 12, 2010, Ms. Janet Obregon contacted Ms. Edith Mobley seeking legal representation for pending criminal charges. Ms. Obregon had been referred to Ms. Mobley by a bail bondswoman, who recommended her as an attorney. Ms. Mobley arrived at Ms. Obregon's home the following day and provided Ms. Obregon with legal advice, and with a business card stating she was an attorney. Ms. Mobley quoted a legal fee of \$1,300 for her services, and Ms. Obregon at that time paid Ms. Mobley the sum of \$650. Ms. Mobley gave Ms. Obregon a receipt, numbered 504076, showing cash payment of \$650 toward "court fees" of \$1300.
10. When Ms. Obregon appeared in court on December 14, 2010, Ms. Mobley informed her that the Respondent would serve as her attorney. Before such introduction, Ms. Obregon had never met or spoken to the Respondent.
11. As part of a Virginia State Bar investigation, the Respondent was interviewed in person on Thursday, August 18, 2011, by a Virginia State Bar investigator. The Respondent was asked if he at that time maintained a trust account and he falsely claimed that he did. He thereafter falsely claimed that such trust account was maintained at a Springfield, Virginia, branch of the Bank of America. When asked specifically by the investigator for the account number of his trust account, the Respondent stated that he needed to correct his answer, and further stated that he did not at that time maintain a trust account.
12. The Respondent admitted to the Virginia State Bar investigator in both the interview conducted on August 18, 2011, and during a follow up interview on September 27, 2011, that he considered sums collected from clients as earned when received. The Respondent conceded that he did not deposit to an attorney trust account a \$300 cash payment tendered to him which Latin Unity collected from Angel Rivera, also known as Angel

Augusto Bustillo-Rivera, on February 25, 2011. As of February 25, 2011, Mr. Bustillo-Rivera was represented by different counsel, who had yet to withdraw from the client's matter. The Respondent had yet to perform any legal services for Mr. Bustillo-Rivera.

13. During the investigation by the Virginia State Bar, the Respondent and Mr. Padilla advised the Virginia State Bar investigator that the Respondent paid Mr. Padilla for translation services. However, on or about March 2, 2011, the Respondent had informed the attorney who had been representing Mr. Bustillo-Rivera that Latin Unity handles the Respondent's marketing, gets the Respondent his clients, and that the Respondent pays Latin Unity a fee for these services.
14. Since the events described above, Respondent has ceased the active practice of law and is presently in a non-related job.

II. NATURE OF MISCONDUCT

Such conduct by Francis Allen Minor constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

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

RULE 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

- (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(Effective until June 21, 2011)

RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

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

- (a) a partner or a lawyer who individually or together with other lawyers possesses managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the 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:
 - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - (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.

RULE 5.4 Professional Independence Of A Lawyer

- (a) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

RULE 7.3 Direct Contact With Prospective Clients And Recommendation Of Professional Employment

- (d) A lawyer shall not compensate or give anything of value to a person or organization to recommend or secure employment by a client, or as a reward for having made a recommendation resulting in employment by a client, except that

the lawyer may pay for public communications permitted by Rule 7.1 and 7.2 and the usual and reasonable fees or dues charged by a lawyer referral service and any qualified legal services plan or contract of legal services insurance as authorized by law, provided that such communications of the service or plan are in accordance with the standards of this Rule or Rule 7.1 and 7.2, as appropriate.

- (e) A lawyer shall not accept employment when the lawyer knows or it is obvious that the person who seeks the lawyer's services does so as a result of any person's conduct which is prohibited under this Rule.

(Effective until July 1, 2013)

RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

- (a) knowingly make a false statement of material fact[.]

RULE 8.4 Misconduct

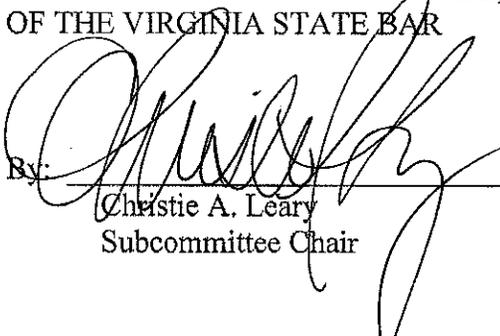
It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another[.]

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 Francis Allen Minor 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.

FIFTH DISTRICT SUBCOMMITTEE, SECTION III
OF THE VIRGINIA STATE BAR

By: 

Christie A. Leary
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on 10 January, 201~~3~~, a true and complete copy of the Subcommittee Determination (Public Reprimand Without Terms) was sent by certified mail to Francis Allen Minor, Respondent, at 7205 Halifax Place, Springfield, Virginia 22150, Respondent's last address of record with the Virginia State Bar.



Prescott L. Prince
Assistant Bar Counsel