

VIRGINIA:

BEFORE THE SECOND DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
Robert Charles Neeley, Jr.

VS B Docket No. 14-021-098289

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On September 24, 2014, a meeting was held in this matter before a duly convened Second District Subcommittee consisting of W. L. Taliaferro, Jr., Dennis M. Wance, and Dennis T. Lewandowski, Chair. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4. of the Rules of the Supreme Court of Virginia. The agreed disposition was subsequently entered into by the Virginia State Bar, by M. Brent Saunders, Assistant Bar Counsel, and Robert Charles Neeley, Jr., Respondent, *pro se*.

WHEREFORE, the Second District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In July 2013, the complainant, Allen Sarvis (“Sarvis”), hired Respondent to assist in obtaining permanent resident status for Sarvis’ wife, a citizen of Canada.
3. On or about September 24, 2013:
  - Sarvis provided Respondent with all documentation needed for the permanent residency or “green card” application and paid Respondent his \$1,200.00 flat fee and filing costs totaling approximately \$1,500.00. Upon making that payment, Respondent told Sarvis the application would be filed by the next day; and
  - Respondent agreed to pursue permission for Sarvis’ wife to travel abroad and re-enter the United States while her permanent resident application was pending, for the purpose of

enabling her to visit her ailing grandfather in Canada and take a planned honeymoon trip to Puerto Rico. Sarvis paid Respondent an additional \$360.00 Respondent told him was the required filing fee for seeking that permission.

4. When the desired travel authorization was not forthcoming, Sarvis attempted to contact and meet with Respondent several times to discuss the matter and was unsuccessful.

5. Unable to reach Respondent and anxious to hear about the status of the travel authorization request, in December 2013, Sarvis went to the local U.S. Customs and Immigration Services (“USCIS”) office and learned that Respondent: i) did not file a permanent resident application and associated documents until early November 2013; and ii) had never filed the necessary form for obtaining re-entry authorization.

6. Respondent told the bar that he did not file a travel authorization request because he formed the opinion that the reasons for the travel would not meet the USCIS eligibility criteria for re-entry authorization. He acknowledges, however, that he has since learned that via Executive Order, Sarvis’ wife in fact would have qualified. He also acknowledges that he should not have requested the \$360.00 from Sarvis as there is no filing fee where a permanent resident application is pending, which Respondent also did not know at the time.

7. Respondent acknowledges that there was “a gap in communication with the client” and that “we could have communicated with Mr. Sarvis more effectively” and specifically that he should have advised Sarvis of his decision not to file the travel authorization request.

## II. NATURE OF MISCONDUCT

Such conduct by Respondent 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 1.4 Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are as follows:

Respondent is placed on probation for a period of two (2) years commencing upon the issuance of this Public Reprimand with Terms. During such probationary period, Respondent will not engage in professional misconduct as defined by the Virginia Rules of Professional Conduct or the disciplinary rules of any other jurisdiction in which the Respondent is admitted to practice law. Any final determination that Respondent engaged in professional misconduct during this probationary period made by a District Subcommittee, District Committee, the Disciplinary Board, a Three-Judge Panel or the Supreme Court of Virginia shall conclusively be deemed to be a violation of this Term.

If the terms are not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause why the alternative sanction of the suspension of Respondent's license to practice law in the Commonwealth of Virginia for a period of 60 days should not be imposed. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed.

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.

SECOND DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

  
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Dennis T. Lewandowski  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on the 19<sup>th</sup> day of NOVEMBER, 2014, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to Robert Charles Neeley, Jr., Respondent, at 184 Business Park Dr Ste 204, Virginia Beach, VA 23462, Respondent's last address of record with the Virginia State Bar.



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M. Brent Saunders  
Assistant Bar Counsel