

VIRGINIA:

**BEFORE THE EIGHTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTERS OF
CHARLES GREGORY PHILLIPS**

**VSB Docket Nos. 11-080-086619
and 12-080-090260**

**SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)**

On January 17, 2013 a meeting was held in this matter before a duly convened Eighth District Subcommittee consisting of Jeffrey Allen Crackel, David Bradford Carson, and Neil T. Treger. 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 in the above referenced cases. The agreed disposition was entered into by the Virginia State Bar, by Paulo E. Franco, Jr., Assistant Bar Counsel, and Charles Gregory Phillips, Respondent, and Phillip V. Anderson, Esquire, counsel for Respondent.

WHEREFORE, the Eighth District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following **PUBLIC REPRIMAND** without Terms:

VSB DOCKET NO. 11-080-086619
Complainant: Virginia State Bar

I. STIPULATIONS OF FACT

1. At all times relevant, the Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent was admitted to the practice of law in the Commonwealth of Virginia on September 30, 1991.

3. The Virginia State Bar received information that the Respondent was counsel of record on two appeals before the Virginia Supreme Court and one appeal before the Virginia Court of appeals, all of which were dismissed due to procedural defaults.

4. Respondent was counsel of record in an appeal before the Virginia Supreme Court involving Mr. Jonathan M. Boitnott. He failed to perfect the appeal.

5. In a subsequent habeas corpus action, the Virginia Supreme Court granted relief of a belated appeal based on Respondent's error.

6. In James Wesley Logan v. Commonwealth of Virginia, Court of Appeals of Virginia Record No. 3184-06-3, Respondent was counsel of record.

7. The Supreme Court of Virginia granted Mr. Logan a belated appeal to the Virginia Supreme Court due to Respondent's failure to perfect an appeal.

8. In Maurese Murphy Reynolds v. Commonwealth, Record No. 021210, Respondent was counsel of record. The Virginia Supreme Court dismissed Reynolds's Petition for Appeal based on Respondent's failure to file a Notice of Appeal with the Court of Appeals.

9. On January 31, 2011, the Virginia State Bar sent Respondent a copy of the complaint along with a demand for a response.

10. Respondent did not respond to the 21 day letter.

11. All of the defendants stated to the Virginia State Bar's investigator that they had not been informed by Respondent their appeals had been dismissed.

II. NATURE OF MISCONDUCT

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

RULE 1.3 Diligence

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

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.

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:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

VSB DOCKET NO. 12-080-090260
Complainant: Zanah L. McCoury

I STIPULATIONS OF FACT

1. At all times relevant, the Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.

2. The Respondent was admitted to the practice of law in the Commonwealth of Virginia on September 30, 1991.

3. David L. Martin was convicted in 2006 of possession of a controlled substance with intent to distribute in federal court.

4. His mother, Zanah L. McCoury, retained Respondent in 2007 to assist in getting a sentence reduction on Mr. Martin's behalf.

5. She paid him a retainer of \$1,200.00.

6. Respondent advised Ms. McCoury that he would be able to get a sentence reduction if Mr. Martin cooperated by giving the authorities a list of his co-conspirators.

7. Ms. McCoury waited several months before she called Respondent's office for an update.

8. Ms. McCoury was told that Respondent was either in court or unavailable. She left messages that were not returned.

9. On April 16, 2008, Mr. Martin wrote to Respondent asking that he return his mother's phone calls to give her peace of mind.

10. On April 11, 2009, Mr. Martin wrote to Respondent again asking him to return phone calls and to do something on his behalf.

11. The first written piece of communication that Respondent produced in response to a Bar subpoena was dated October 23, 2009.

12. During his interview with the Virginia State Bar Investigator, Respondent advised that at the time Ms. McCoury complained of unreturned phone calls he did not have a system for recording messages.

II. NATURE OF MISCONDUCT

RULE 1.3 Diligence

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

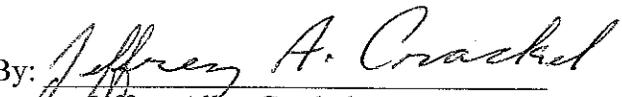
RULE 1.4 Communication

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

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 Charles Gregory Phillips 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.

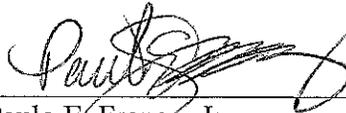
EIGHTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By: 

Jeffrey Allen Crackel
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on this 1ST day of October, 2013, a true and complete copy of the Subcommittee Determination Public Reprimand Without Terms was sent by certified mail to Charles Gregory Phillips, Respondent, at Phillips and Phillips, 111 East Clay Street, Salem, VA 24153, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Phillip Verne Anderson, counsel for Respondent, at Frith Anderson & Peake, P.C., 29 Franklin Road, P.O. Box 1240, Roanoke, VA 24006-1240.



Paulo E. Franeo, Jr.
Assistant Bar Counsel

VIRGINIA:

BEFORE THE EIGHTH DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTERS OF
CHARLES GREGORY PHILLIPS

VS B Docket Nos. 11-080-086619,
12-080-008325, and 12-080-090260

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AUG 23 2013
VIRGINIA STATE BAR

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 Paulo E. Franco, Jr., Assistant Bar Counsel, and Charles Gregory Phillips, Respondent, and Phillip V. Anderson, Esquire, counsel for Respondent, hereby enter into the following agreed disposition arising out of the referenced matter.

VS B DOCKET NO. 11-080-086619
Complainant: Virginia State Bar

I. STIPULATIONS OF FACT

1. At all times relevant, the Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent was admitted to the practice of law in the Commonwealth of Virginia on September 30, 1991.
3. The Virginia State Bar received information that the Respondent was counsel of record on two appeals before the Virginia Supreme Court and one appeal before the Virginia Court of appeals, all of which were dismissed due to procedural defaults.
4. Respondent was counsel of record in an appeal before the Virginia Supreme Court involving Mr. Jonathan M. Boitnott. He failed to perfect the appeal.
5. In a subsequent habeas corpus action, the Virginia Supreme Court granted relief of a belated appeal based on Respondent's error.
6. In James Wesley Logan v. Commonwealth of Virginia, Court of Appeals of Virginia Record No. 3184-06-3, Respondent was counsel of record.

7. The Supreme Court of Virginia granted Mr. Logan a belated appeal to the Virginia Supreme Court due to Respondent's failure to perfect an appeal.

8. In Maurese Murphy Reynolds v. Commonwealth, Record No. 021210, Respondent was counsel of record. The Virginia Supreme Court dismissed Reynold's Petition for Appeal based on Respondent's failure to file a Notice of Appeal with the Court of Appeals.

9. On January 31, 2011, the Virginia State Bar sent Respondent a copy of the complaint along with a demand for a response.

10. Respondent did not respond to the 21 day letter.

11. All of the defendants stated to the Virginia State Bar's investigator that they had not been informed by Respondent their appeals had been dismissed.

II. NATURE OF MISCONDUCT

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

RULE 1.3 Diligence

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

* * * *

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.

* * * *

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:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

* * * *

VSB DOCKET NO. 12-080-090260
Complainant: Zanah L. McCoury

I STIPULATIONS OF FACT

1. At all times relevant, the Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. The Respondent was admitted to the practice of law in the Commonwealth of Virginia on September 30, 1991.
3. David L. Martin was convicted in 2006 of possession of a controlled substance with intent to distribute in federal court.
4. His mother, Zanah L. McCoury, retained Respondent in 2007 to assist in getting a sentence reduction on Mr. Martin's behalf.
5. She paid him a retainer of \$1,200.00.
6. Respondent advised Ms. McCoury that he would be able to get a sentence reduction if Mr. Martin cooperated by giving the authorities a list of his co-conspirators.
7. Ms. McCoury waited several months before she called Respondent's office for an update.
8. Ms. McCoury was told that Respondent was either in court or unavailable. She left messages that were not returned.
9. On April 16, 2008, Mr. Martin wrote to Respondent asking that he return his mother's phone calls to give her peace of mind.
10. On April 11, 2009, Mr. Martin wrote to Respondent again asking him to return phone calls and to do something on his behalf.
11. The first written piece of communication that Respondent produced in response to a Bar subpoena was dated October 23, 2009.
12. During his interview with the Virginia State Bar Investigator, Respondent advised that at the time Ms. McCoury complained of unreturned phone calls he did not have a system for recording messages.

II. NATURE OF MISCONDUCT

RULE 1.3 Diligence

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

* * * *

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.

* * * *

PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and Respondent tender to a subcommittee of the Eighth District Committee 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 Eighth District Committee.

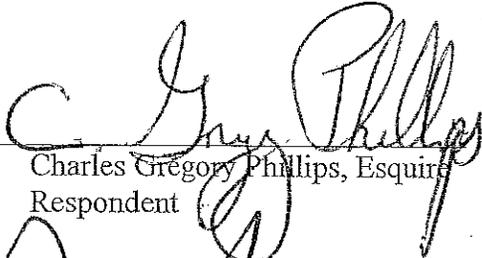
If the agreed disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee for each of these three cases.

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



Paulo E. Franco, Jr., Esquire
Assistant Bar Counsel



Charles Gregory Phillips, Esquire
Respondent



Philip V. Anderson, Esquire
Counsel for Respondent