

VIRGINIA:

BEFORE THE FIFTH DISTRICT – SECTION II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
DOMINICK ANTHONY PILLI

VS. Docket No. 12-052-092215

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On March 17, 2015 a meeting was held in this matter before a duly convened Fifth District – Section II Subcommittee consisting of Benton Samuel Duffett, III, Esquire, Michael Mackert, lay member, and Leslie Weber Hoffman, Esquire, chair presiding. 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 entered into by the Virginia State Bar, by Anastasia K. Billy, Assistant Bar Counsel, and Dominick Anthony Pilli, Respondent, pro se.

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

I. FINDINGS OF FACT

1. Respondent Dominick Anthony Pilli (“Respondent”) is, and at all times relevant hereto has been, duly licensed to practice law in the Commonwealth of Virginia.
2. Respondent maintains two trust accounts, one for cash and checks received (“Primary Trust Account”), and one for credit card payments received (“Credit Card Trust Account”).
3. Although it was labeled “TRUST ACCT”, Respondent’s Primary Trust Account was set up as a “free business checking” account, which later changed to a “business value” account, rather than a trust account. Respondent maintains that due to the label on the account, he believed the Primary Trust Account was correctly set up by the bank as a trust account.
4. Respondent’s Credit Card Trust Account was set up as a “basic business checking” account, which later changed to a “free business checking” account, and then a

“business value” account, rather than a trust account. Respondent maintains that he did not realize the Credit Card Trust Account was not correctly set up by the bank as a trust account.

5. Respondent has overdrawn both of the above-referenced trust accounts. As a result of the accounts being misclassified with the bank as regular checking accounts rather than trust accounts, no overdraft notices were provided to the Virginia State Bar by the bank.

6. Respondent has not maintained the records required by Rule of Professional Conduct 1.15.

7. Respondent has not utilized the accounting procedures required for trust accounts by Rule of Professional Conduct 1.15.

8. Respondent has not prepared the reconciliations required by Rule of Professional Conduct 1.15.

II. NATURE OF MISCONDUCT

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

RULE 1.15 Safekeeping Property

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts; all other property held on behalf of a client should be placed in a safe deposit box or other place of safekeeping as soon as practicable.

...

(b) Specific Duties. A lawyer shall:

...

(2) identify and label securities and properties of a client, or those held by a lawyer as a fiduciary, promptly upon receipt;

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

...

(5) not disburse funds or use property of a client or third party without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(1) Cash receipts and disbursements journals for each trust account, including entries for receipts, disbursements, and transfers, and also including, at a minimum: an identification of the client matter; the date of the transaction; the name of the payor or payee; and the manner in which trust funds were received, disbursed, or transferred from an account.

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

(3) In the case of funds or property held by a lawyer as a fiduciary, the required books and records shall include an annual summary of all receipts and disbursements and changes in assets comparable in detail to an accounting that would be required of a court supervised fiduciary in the same or similar capacity; including all source documents sufficient to substantiate the annual summary.

(4) All records subject to this Rule shall be preserved for at least five calendar years after termination of the representation or fiduciary responsibility.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

(1) Insufficient Fund Reporting. All accounts are subject to the requirements governing insufficient fund check reporting as set forth in the Virginia State Bar Approved Financial Institution Agreement.

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) Reconciliations.

(i) At least quarterly a reconciliation shall be made that reflects the trust account balance for each client, person or other entity.

(ii) A monthly reconciliation shall be made of the cash balance that is derived from the cash receipts journal, cash disbursements journal, the trust account checkbook balance and the trust account bank statement balance.

(iii) At least quarterly, a reconciliation shall be made that reconciles the cash balance from (d)(3)(ii) above and the subsidiary ledger balance from (d)(3)(i).

(iv) Reconciliations must be approved by a lawyer in the law firm.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

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:

1. No later than thirty (30) days following the entry of the Committee Determination, Respondent shall, at his sole cost and expense, retain the services of a lawyer or other professional approved by Assistant Bar Counsel as a law office practice management consultant ("Consultant"), to review, audit and make written recommendations concerning the Respondent's law practice methods, systems, escrow/trust account maintenance and record-keeping, as set forth more fully below, to ensure compliance with all provisions of the Virginia Rules of Professional Conduct. Respondent shall advise Assistant Bar Counsel, in writing, whom he has engaged as a consultant within seven (7) days of the engagement. Such engagement shall then be verified by Assistant Bar Counsel directly with the Consultant.

2. Respondent shall grant the Consultant full access to his law practice office, books, records and files for the purpose of conducting the review and monitoring of Respondent's compliance with the Consultant's recommendations. Respondent shall be obligated to pay when due the Consultant's fees and costs for services rendered (including provision to the Bar and to Respondent of information concerning this matter), and any failure to do so shall be considered a violation of the Terms set forth herein.

3. The Office of Bar Counsel shall have full access, through telephone and in-person communication and/or written reports and correspondence, to the Consultant's findings and recommendations and assessment of the Respondent's compliance with said recommendations.

4. As soon as possible after retention, and no later than necessary for compliance with the timing of all required reports set forth herein, the Consultant shall audit the policies, practices and procedures of Respondent's law office to ensure that they are in compliance with the Virginia Rules of Professional Conduct, and in particular to ensure that all client and third party funds are properly deposited and accounted for, that Respondent has systems in place to ensure proper tracking of and compliance with all deadlines and hearing dates in pending cases, and that Respondent has proper client file maintenance procedures. In the event the Consultant determines that the Respondent has policies, practices and procedures in place to ensure his future compliance with the provisions of the Rules of Professional Conduct, the Consultant shall so certify in writing to the Respondent and the Bar. In the event the Consultant determines that Respondent does not have such policies, practices and procedures in place, the Consultant shall notify Respondent and the Bar, in writing, of the measures that Respondent must take to effect compliance. The deadline for the Consultant's submission of this initial report shall be set by the Consultant, with the concurrence of Assistant Bar Counsel, after an initial meeting with

Respondent, which meeting shall take place no later than forty-five (45) days after the Consultant's retention by Respondent. Thereafter, Respondent shall cooperate with the Consultant to ensure that the initial report is submitted to the Bar by the deadline set by the Consultant.

5. Respondent shall immediately institute and follow any and all measures dictated by the Consultant, as set forth above, such that all measures are in place by no later than ninety (90) days after the date of the Consultant's report. Immediately following this period, the Consultant shall again review Respondent's law practice office, books, records and files. Within three (3) weeks thereafter, Respondent shall ensure the Office of Bar Counsel receives a copy of the Consultant's written report of Respondent's compliance with each of the Consultant's recommendations. The Respondent's failure to conform his practices to the Consultant's recommendations in a timely fashion, as set forth above, shall be considered a violation of the Terms set forth herein.

6. The Consultant shall again examine Respondent's law practice methods, systems, escrow/trust account maintenance and record-keeping at an agreed date not earlier than six (6) months and not later than nine (9) months following the date of the Consultant's initial certification of Respondent's compliance to the Virginia State Bar, as set forth above. The Consultant shall at that time either re-certify Respondent's compliance, in writing, or issue a written report to the Virginia State Bar indicating that Respondent is not then in compliance with the Rules of Professional Conduct. Any lack of compliance by Respondent under this paragraph shall be considered a violation of the Terms set forth herein.

If the terms are not met by the deadlines set forth herein, pursuant to Part 6, § IV, ¶ 13-15.G of the Rules of the Supreme Court of Virginia, the alternative disposition shall be a

Certification For Sanction Determination. 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.

This Determination is final and binding upon Respondent and is not subject to appeal.

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.

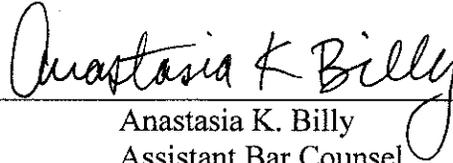
FIFTH DISTRICT – SECTION II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR



Leslie Weber Hoffman
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on 3/30/15, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to Dominick Anthony Pilli, Respondent, at Law Offices of Dominick A Pilli PC, 4103 Chain Bridge Rd Ste 302, Fairfax, VA 22030, Respondent's last address of record with the Virginia State Bar.


Anastasia K. Billy
Assistant Bar Counsel