

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

**VIRGINIA STATE BAR EX REL.
SECOND DISTRICT COMMITTEE**

JUN 28 2012

Complainant

v.

**Case No. CL 2012-4137
(VSB DOCKET NO. 10-022-081527)**

ATCHUTHAN SRISKANDARAJAH

Respondent

MEMORANDUM ORDER

This cause came to be heard via teleconference hearing on June 5, 2012 by a duly convened, three-judge court consisting of the Honorable Donald M. Haddock, Retired Judge, the Honorable Horace A. Revercomb, III, Retired Judge, and the Honorable H. Thomas Padrick, Jr., Chief Judge Designate. The Virginia State Bar appeared by its Assistant Bar Counsel, Paul D. Georgiadis. The Respondent, Atchuthan Sriskandarajah, was present and was represented by counsel, Bernard Joseph DiMuro, who also was present.

This matter came before the Court pursuant to Respondent's February 28, 2012 demand that the proceedings certified to the Disciplinary Board by the Second District Committee Section II, be terminated and that this matter proceed before a three judge circuit court panel pursuant to §54.1-3935 of the Code of Virginia. On March 21, 2012, the Circuit Court of the County of Fairfax issued a Rule to Show Cause against the Respondent, returnable on June 20, 2012.

By order entered on March 29, 2012, the Supreme Court of Virginia appointed the members of this three judge panel, the Honorable Donald M. Haddock, Retired Judge, the Honorable Horace A. Revercomb, III, Retired Judge, and the Honorable H. Thomas Padrick, Jr., Chief Judge Designate.

Pursuant to §54.1-3935 (B) of the Code of Virginia and Pt. 6, §IV, ¶13-6 H, the parties tendered an Agreed Disposition to the Court on May 29, 2012.

Upon review of the tendered Agreed Disposition and upon consideration of the arguments of counsel, the Court ACCEPTS the tendered Agreed Disposition and thereby makes the following findings of fact and findings of a violation of a Rule of Professional Conduct and imposes the sanction of Public Reprimand without Terms. The Court notes that the parties reached the Agreed Disposition based upon the following considerations:



1. This matter raises a number of issues of first impression given the burgeoning use of the internet for advertising and marketing and to create "virtual" law offices.
2. It is recognized by both the Virginia State Bar ("the Bar") and the Respondent that the application of the Rules of Professional Conduct to advertising and marketing via the internet and to "virtual" offices poses difficulties and those traditional concepts of professional conduct may not translate easily when applied to electronic communications and/or "virtual" offices.
3. Over the course of two years the Bar has raised certain issues with the Respondent. The Respondent in turn has responded to the Bar's concerns and sought guidance from the Bar.
4. It is recognized that the Bar's overriding concern is the protection of the public. It is further recognized that the Respondent and others like him have rights to engage in commercial speech under the First Amendment.
5. It is with these principles in mind that the Bar and the Respondent have reached an agreed disposition as to the Bar's pending concerns about Respondent's marketing and advertising efforts and his use of "virtual" offices.
6. Both parties have compromised on their positions for purposes of a resolution of this matter and reserve their rights for further disputes.

I. FINDINGS OF FACT

7. At all times relevant hereto, Atchuthan Sriskandarajah, "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia.
8. Respondent is the sole principal and owner of the SRIS Law Group, P.C., and "the firm."
9. In various law firm public communications including his website, srislawyer.com, representation agreements, letterhead, and business cards, Respondent makes the representation that the firm, the SRIS Law Group, P.C., is a law firm of multiple attorneys, including but not limited to the following instances:
 - i. "Stop worrying . . . and Let the lawyers of SRIS, P.C. Start Taking "Care of You!" 2/22/10 website.
 - ii. The **SRIS Law Group** is a NATIONAL LAW FIRM that primarily focuses on three areas of law. 11/7/11 website.
 - iii. "when you hire a SRIS, P.C. Virginia, Maryland or Massachusetts Adoption Lawyer, you receive personal attention of a lawyer who has the backing of a firm that has a statewide presence. 11/8/11 website.

GP

- iv. “. . . you have sought the assistance of the Law Offices of Sris, P.C. and its counsel and associates . . .” 12/15/08 Representation Agreement with Toni Shank.
 - v. “SRIS Law Group, P.C. “Offices in Manassas, Virginia, Richmond, Virginia, Virginia Beach, Virginia, Lynchburg, Virginia, Fredericksburg, Virginia, Rockville, Maryland, Baltimore, Maryland, Boston, Massachusetts, Chennai, India. Letterhead.
 - vi. SRIS Law Group, P.C., listing multiple offices. Business Card.
10. In his correspondence to the Bar dated April 15, 2010 concerning this bar complaint, in his interview with the bar’s Investigator on September 2, 2011, and at other times, Respondent has represented that the firm attorneys are independent contractors only for tax purposes, but otherwise are fully part of the firm.
 11. The Bar has raised the concern with the Respondent that his law firm is, in fact, not a law firm of attorneys employed by him but rather a collection of independent contractors that are not under his supervision and control. The Bar takes the position that until October 19, 2011, the SRIS Law Group consisted of a single attorney – the Respondent, with his so-called associates being independent contractor attorneys paid on a commission basis.
 12. Since October 19, 2011, Respondent has hired two newly admitted associates as employees of SRIS Law Group, P.C., with the majority of the firm’s attorneys still being independent contractors.
 13. The Bar claims that notwithstanding his public communications and representations of having a law firm, Respondent’s private communications consistently define his attorneys as independent contractors.
 - i. In applications for insurance submitted in 2009 and 2011 Respondent listed the law firm’s attorneys (other than himself) as independent contractors.
 - ii. With the exception of the two attorneys hired as employees on October 19, 2011 and November 3, 2011, all of the firm attorneys have and have had employment contracts describing the relationship of each attorney as “an independent contractor and as Counsel to the law firm.” The contracts not only define the relationship as one of independent contractor, but also set out a functional framework as such to include shifting to the attorneys as independent contractor’s key responsibilities including: overseeing client accounts; assuming sole responsibility for client matters upon the attorney departing the firm; and indemnifying the firm for any uninsured loss.
 - iii. In the firm’s Employee and Attorney Handbook, Respondent designates the attorneys as “Independent Contractors”:

“Attorney Schedules: Attorneys will be considered to be

“Independent Contractors.” Therefore they make their own hours.”

14. The Respondent has countered with evidence (including documentary evidence and emails) that he directly supervises and controls the work of the attorneys in his firm and that daily he is aware of the work of his attorneys. He asserts that there is nothing improper with having a law firm comprised of attorneys who are independent contractors and at the same time representing that they constitute a law firm.
15. However, as a compromise with the Bar, the Respondent has agreed for purposes of this matter that he will alter his agreements with his attorneys so that they are employees of the firm and is now taking steps to do so as of May 22, 2012.
16. The Bar contends that in his website, srislawyer.com, Respondent represents that each of the attorneys of the SRIS Law Group primarily practices in only one area of the law:
 - i. “Each attorney in our law firm primarily focuses his or her practice in only one area of law. Our Virginia, Maryland & Massachusetts lawyers who primarily handle criminal, traffic or reckless driving cases don’t attempt to dabble in unrelated areas of law.” 2/22/10 website.
 - ii. “The SRIS, P.C. **Massachusetts, Maryland & Virginia** attorneys provide legal services to clients in a broad range of practice areas. However, each of our attorneys focuses primarily in one area of the law.” 11/7/11 website.
 - iii. “Our Virginia, Maryland & Massachusetts lawyers who primarily handle criminal, traffic or reckless driving cases don’t attempt to dabble in unrelated areas of law.” 11/7/11 website.
 - iv. “Our firm has case specific attorneys . . .”
17. The Bar claims that notwithstanding Respondent’s website, each of the SRIS Law Group attorneys handle several areas of practice – both according to the firm’s websites and by their own admission. Examples to which the Bar points include but are not limited to:
 - i. A website page in which the respondent states that he handles 18 practice areas on the firm website. These could be considered three major areas of criminal defense, immigration, and civil litigation:
 - Criminal Law
 - DUI/DWI
 - Immigration & Naturalization
 - Litigation & Appeals
 - Traffic Violations



- White Collar Crimes
- Criminal Fraud
- Drug Violations
- Federal
- Felonies
- Juvenile Crimes
- Misdemeanor
- Sex Offenses
- Immigration & Naturalization Law
- Deportation
- Immigration
- Naturalization & Citizenship
- Visas

2/22/10 website, 12/7/11 website.

ii. The firm's website listing for attorney Shannon Hadeed listed the following practice areas:

- 30% criminal
- 30% Traffic Matter
- 20% Family Matters
- 20% Immigration

2/22/10 website.

iii. The firm's website listing for attorney Christine Hissong listed 7 practice areas, being essentially family law, general civil litigation, and mediation:

- Family Law
- Divorce
- Child Custody [sic]
- Support
- Adoption
- Civil Litigation [sic]
- Mediation

2/22/10 website.

iv. The firm's website listing for attorney Garrett Green stated on one page, "handles criminal and traffic matters exclusively." 2/22/10 website. Thereafter, the website listed five practice areas:

- Business & Commercial law
- Contracts
- Criminal Law
- Litigation & Appeals

- “Real Estate Law
- Litigation Percentage
- 75% of Practice Devoted to Litigation

2/22/10 website.

18. The Respondent replies that his attorneys in fact handle primarily one area of law and that the separate listings reflect the same general area of law. He claims, therefore, that he has not misled the public. However, the Respondent has agreed and has taken steps as of May 22, 2012, to amend his attorney profiles on his firm website to reflect that the attorneys handle more than one area of law.
19. In various public communications, including the srislawyer.com website, letterhead, and business cards, Respondent makes the representation of a law firm that has at least six law offices in the Commonwealth of Virginia. These representations include:
- i. “Since our founding in 1997, SRIS, P.C. has grown to include six offices in seven cities spanning three states . . . Click on the office you are trying to locate and view the directions to that office.” Thereafter, the firm website lists 13 locations: Fairfax, Fredericksburg, Lynchburg, Manassas, Richmond, Virginia Beach, Annapolis, Md, Rockville, Md, Baltimore, Md, Boston, Mass, Cambridge, Mass, New York, NY, and Orange, Cal. 2/22/10 website
 - ii. “In Virginia, we have offices in Northern Virginia, Central Virginia, Western Virginia & the Hampton Roads/Tidewater Area. In Virginia, we’re located in Fairfax County, Fredericksburg, Lynchburg County, Manassas (Prince William County), Richmond & Virginia Beach.”
 - iii. SRIS Law Group, P.C. business card: “New York, NY, Orange, CA, Richmond, VA, Boston, MA, Manassas, VA, Charlotte, N.C., Lynchburg, VA, Rockville, MD, Virginia Beach, VA, Baltimore, MD, Fredericksburg, VA, Cambridge, MA, Chennai, India.”
20. The Bar claims that in fact, the firm has a single office in Virginia, the Fairfax, Virginia office and that along with an off-shore office in Chennai, India, the Fairfax office handles prospective client calls via a toll-free, 1-888 telephone number. The remaining Virginia locations are 5 virtual and unstaffed office locations consisting of various arrangements to use the location for client meetings. The Bar contends that some of the locations (i.e., executive office suites) do not provide space exclusive to Respondent’s firm but rather, the same space is offered to multiple other entities on an as-needed reservation basis. None of the non-Fairfax locations houses firm office staff or contains firm office equipment, firm office furniture, or firm files.
21. The Respondent has countered that there is no requirement under the Rules that his law firm’s offices be permanent, fully staffed offices that are open for a set period of time each day. He asserts that there are no client files maintained at these offices but

rather the client files are secured electronically and hence, client confidentiality is not jeopardized.

22. The Respondent has agreed however, and has taken steps as of May 22, 2012, to amend his firm website to reflect that any location that is not a permanent, fully staffed location with set working hours is identified as a "client meeting location."
23. Finally, the Bar and the Respondent agree that should the Bar have any further concerns about the Respondent's website in the future the Respondent shall respond to such concerns as stated in writing within 30 days and the parties shall be permitted an additional 60 days in which to reach agreement on those concerns prior to any complaint being instituted.

II. NATURE OF VIOLATION

Such conduct by Atchuthan Srisankandarajah constitutes a violation of the following provision of the Rules of Professional Conduct:

RULE 7.4 COMMUNICATION OF FIELDS OF PRACTICE AND CERTIFICATION

Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, Rule 7.2, and Rule 7.3, as appropriate.

The Court hereby ORDERS that Respondent be and is hereby issued this PUBLIC REPRIMAND WITHOUT TERMS for such violation.

The Clerk of the Disciplinary System shall comply with all requirements of Part 6, §IV, ¶13 of the Rules of Court, as amended (the "Rules"), including but not limited to assessing costs pursuant to ¶13-9E.1 of the Rules and complying with the public notice requirements of ¶13-9G of the Rules.

The Court Reporter who transcribed these proceedings is Angela N. Sidener, Chandler & Halasz Court Reporters, P.O. Box 9349, Richmond, VA 23227.

Let the Clerk of the Court send a copy *teste* to all counsel of record and to Barbara S. Lanier, Clerk of the Virginia State Bar Disciplinary Board, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219.

Entered 6 / 18 / 2012

H. Thomas Padrick, Jr.

H. Thomas Padrick, Jr.
Chief Judge Designate

A COPY TESTE:
JOHN T. FREY, CLERK

BY: *Kimberly C. Pratt*
Deputy Clerk

Date: *6/21/2012*
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

CL-2012-4137