



VIRGINIA:

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

IN THE MATTER OF
Rebecca Winslow Thacher

VSB Docket No. 18-053-111919

SUBCOMMITTEE DETERMINATION
PUBLIC REPRIMAND WITHOUT TERMS

On April 23, 2019 a meeting was held in this matter before a duly convened Fifth District, Section III Subcommittee consisting of Peter John Schwartz, Samuel Adam Leven, and Maura Burke Weiner. 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 Laura Ann Booberg, Assistant Bar Counsel, Rebecca Winslow Thacher, Respondent, and Craig Stover Cooley, Esquire, counsel for Respondent.

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

I. FINDINGS OF FACT

1. At all times relevant to the conduct set forth herein, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. Complainant, Alan Cilman ("Cilman") represented a client ("the client") in a criminal case set in the Circuit Court for Prince William County. The client was incarcerated at the Adult Detention Center ("the Detention Center") in Manassas, Virginia.
3. Calls from the Detention Center are monitored and recorded by Global Tel-Link. In order for the calls to be tagged as protected attorney client calls, the attorney must register his phone number so that it will be identified by the system and the call will not be recorded.

4. Cilman did not properly register his phone number and four calls from his client were recorded. The calls took place on November 27 and 28, 2017, and December 1 and 4, 2017.
5. When a call was initiated, a preamble played that stated, "This call is from a corrections facility and is subject to monitoring and recording." On three of the calls, upon hearing the preamble, Cilman stated that he was an attorney. On the November 28, 2017 call, he stated, "ok, F--- Global Tel-Link, attorney / client, stop recording." On the December 1, 2017 call he stated, "If they're listening they can go F--- themselves." On the December 4, 2017 call, he stated, "F--- you Global Tel-link, F--- you Prince William County jail, F-- - you Prince William County, Shithead get off the line this is attorney client."
6. On December 5, 2017, in anticipation of the client's bond hearing, Respondent requested the client's call log. On at least one call, Respondent heard Cilman's statement and recognized his voice. Knowing that he was an attorney, she listened to the call.
7. Respondent consulted with Chief Deputy Commonwealth Attorney Rick Conway and other colleagues. They concluded that listening to the call was appropriate since Cilman did not register with Global Tel-Link properly and thus, had no expectation of privacy and waived attorney client privilege.
8. Although Respondent obtained the client's call log on December 5, 2017, she did not provide it to Cilman until January 17, 2018.
9. At a hearing on January 18, 2018, the court questioned Respondent about the phone calls. The following is an excerpt from the transcript of this colloquy:

Court: "Right, okay. And when did you come to the realization that some of those recorded phone calls were attorney/client phone calls?"

Respondent: "When I listened to them or when I got them."

Court: "What do you mean when you listened to them or when you got them?"

Respondent: "Well, Mr. Cilman's voice is the first thing you hear, saying, "F-you, Prince William County, F-you Global Tel Link, stop listening, get off the line."

Court: "Okay."

Respondent: "F-everybody."

Court: "Okay."

Respondent: "So, I realized that they were" - -

Court: "Then you listened further?"

Respondent: "I did listen to some."

Court: "Okay, Well, if you knew that they were attorney/client conversations" - -

Respondent: "What I will tell the Court is that I spoke with the jail to confirm whether or not Mr. Cilman had registered his number as an attorney - - the jail can only not record phone calls if they know the number is an attorney phone number. They don't - - they can't possibly know every attorney's phone number in Virginia. They have to have someone register their number. Mr. Cilman previously registered a different phone number. He is therefore aware of the procedure of how to do it. He has done it before. He has not updated his number or added this number to anything. He knows these recordings.

10. According to Cilman, on each of the recorded calls, he discussed trial strategy with his client.

II. NATURE OF MISCONDUCT

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

RULE 4.4 Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that have no purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

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 Rebecca Winslow Thacher 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, SECTION III SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

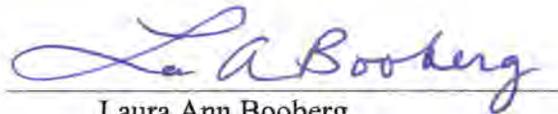
By: _____



Peter John Schwartz
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on May 7, 2019, a true and complete copy of the Subcommittee Determination (Public Reprimand without Terms) was sent by certified mail to Rebecca Winslow Thacher, Respondent, at Office of the Commonwealth Attorney Prince William County, 9311 Lee Avenue, Manassas, VA 20110, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Craig Stover Cooley, counsel for Respondent, at P.O. Box 7268, Richmond, VA 23221.



Laura Ann Booberg
Assistant Bar Counsel

VIRGINIA:

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

IN THE MATTER OF
REBECCA WINSLOW THACHER

VSB Docket No. 18-053-111919

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 Laura Ann Booberg, Assistant Bar Counsel; Rebecca Winslow Thacher, Respondent; Craig Stover Cooley, Counsel for Respondent; hereby enter into the following agreed disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. At all times relevant to the conduct set forth herein, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. Complainant, Alan Cilman, ("Cilman"), represented a client, ("the client"), in a criminal case set in the Circuit Court for Prince William County. The client was incarcerated at the Adult Detention Center, ("the Detention Center"), in Manassas, Virginia.
3. Calls from the Detention Center are monitored and recorded by Global Tel-Link. In order for the calls to be tagged as protected attorney client calls, the attorney must register his phone number so that it will be identified by the system and the call will not be recorded.
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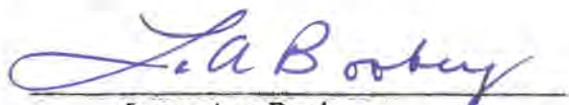
III. PROPOSED DISPOSITION

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

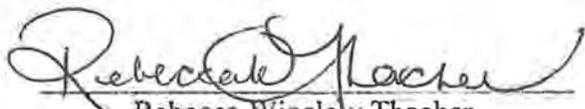
If the agreed disposition is approved, the Clerk of the Disciplinary System shall assess an administrative fee.

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.

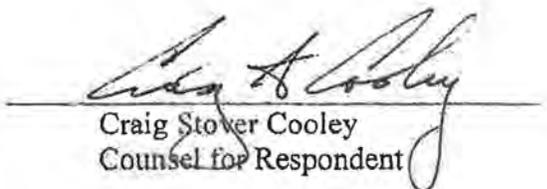
THE VIRGINIA STATE BAR



Laura Ann Booberg
Assistant Bar Counsel



Rebecca Winslow Thacher
Respondent



Craig Stover Cooley
Counsel for Respondent