

VIRGINIA:

IN THE CIRCUIT COURT FOR THE FOR THE CITY OF RICHMOND

IN THE MATTER OF
JOSE ANGEL BAEZ

CASE NO. CL21-4583-7
VSB DOCKET NO.: 20-070-117366

AGREED DISPOSITION MEMORANDUM ORDER
FOR A PUBLIC ADMONITION WITH TERMS

This matter came to be heard on Wednesday, December 08, 2021, before a Circuit Court Three-Judge panel, upon the joint request of the parties for the Court to accept the Agreed Disposition endorsed by the parties and offered to the Court as provided by the Rules of the Supreme Court of Virginia. The panel consisted of the Honorable W. Allan Sharrett, Judge of the Sixth Judicial Circuit, Designated Chief Judge; the Honorable Jayne A. Pemberton, Judge of the Twelfth Judicial Circuit; and the Honorable Holly B. Smith, Judge of the Ninth Judicial Circuit. Jose Angel Baez was present and was represented by counsel, Leslie A. T. Haley. The Virginia State Bar appeared through its Assistant Bar Counsel, Paulo E. Franco, Jr. The Chief Judge polled the members of the panel as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each judge responded in the negative. Court Reporter, Lisa Wright, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

WHEREFORE, upon consideration of the Agreed Disposition, the Charge of Misconduct, Respondent's Answer, Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation, the Circuit Court rejected the Agreed Disposition and made certain recommendations with regard to an acceptable disposition.

UPON CONSIDERATION of the Circuit Court's recommendations, the Respondent, his counsel and the Bar agreed that the Respondent shall receive a Public Admonition with Terms as set forth in the revised Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is therefore **ORDERED** that the Circuit Court accepts the Agreed Disposition as revised, and the Respondent shall receive a Public Admonition with Terms.


It is further **ORDERED** that the sanction is effective December 9, 2021.

The Clerk of the Disciplinary System shall assess costs pursuant to ¶13-9 E. of the Rules.

It is further **ORDERED** than an attested copy of this ORDER be mailed to Respondent, by 1st class mail, Jose Angel Baez, 1200 Brickell Ave., Ste. 620, Miami, Florida 33131, and a copy to Respondent's Counsel, Leslie A. T. Haley, Park Haley LLP, 1011 E. Main Street, Suite 300, Richmond, VA 23219-3537, and to Paulo E. Franco, Jr. Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026, and to the Clerk of the Disciplinary System, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026.

ENTERED THIS 9th DAY OF December 2021

CIRCUIT COURT FOR THE CITY OF RICHMOND



W. Allan Sharrett, Chief Judge
Three-Judge Circuit Court

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

**VIRGINIA STATE BAR EX REL
SEVENTH DISTRICT COMMITTEE
VSB Docket No. 20-070-117366**

Complainant,

v.

Case No. CL21004583-00

JOSÉ ÁNGEL BAEZ

Respondent.

AGREED DISPOSITION
(PUBLIC ADMONITION WITH TERMS)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Paulo E. Franco, Jr., Assistant Bar Counsel and José Ángel Baez, Respondent, and Leslie Ann Takacs Haley, Respondent's counsel, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. Respondent is an attorney licensed to practice law in the State of Florida. He was admitted to practice law in the Commonwealth of Virginia *pro hac vice* pursuant to Rule 1A:4 of the Rules of the Supreme Court of Virginia by the Circuit Court of Loudoun County, Virginia in connection with his representation of Complainant, Rose McGowan.

2. By being admitted to practice law in the Commonwealth of Virginia *pro hac vice*, Respondent consented to and subjected himself to the jurisdiction of the Virginia State Bar. Va. S.Ct. Rule 1A:4(a)(9). Virginia Rules of Professional Conduct Rule 8.5.

3. Ms. McGowan faced a criminal charge in Loudoun County, Virginia. The alleged offense took place in January of 2017.

4. When the matter appeared likely to head to trial, Ms. McGowan reached out to Respondent via a message using social media to inquire about whether he could represent her interests in the event that the case was actually tried.

5. On May 17, 2018, Ms. McGowan signed a retainer agreement (“Agreement”) that Respondent’s firm had forwarded to her by email.

6. The Agreement provided that Respondent would represent Ms. McGowan in a criminal matter in Loudoun County, Virginia.

7. The Agreement provided, *inter alia* that Respondent would represent her through trial in consideration for an agreed upon flat fee that would require further payment if trial lasted more than one week.

8. Pursuant to paragraph 1 of the Agreement, the fees Ms. McGowan paid were non-refundable.

9. Pursuant to paragraph 3 of the Agreement, Respondent deemed that fees Ms. McGowan paid were “earned when paid.”

10. Pursuant to paragraph 9 of the Agreement, Respondent and Ms. McGowan agreed that “Non-Refundable means that the retainer fee is NOT subject to refunding or being refunded regardless of the circumstances, the length of the FIRM's representation, the outcome of the case or how quickly the case is closed.”

11. Prior to her pending trial on the drug charge, Ms. McGowan’s legal team initiated settlement negotiations with the prosecution.

12. According to Respondent, Ms. McGowan’s local counsel initiated all contact and performed all the work to secure a plea deal on her behalf.

13. On the morning of January 14, 2019, Ms. McGowan and her local counsel appeared before the Loudoun County Circuit Court upon the plea deal, which the court ultimately accepted.

14. The parties have previously stipulated and agreed to venue in the Circuit Court for the City of Richmond.

15. The Virginia State Bar has previously stipulated that the dollar amount contained in Respondent’s fee agreement is not the basis for the alleged violation of Rule 1.5.

16. The parties stipulate that the findings of fact and nature of Misconduct contained in this Agreed Disposition are limited to the issue of whether the non-refundable fee agreement is violative of the Virginia Rules of Professional Conduct.

II. NATURE OF MISCONDUCT

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

Rule 1.5 Fees¹

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

Rule 1.16 Declining or Terminating Representation

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned and handling records as indicated in paragraph (e).

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel, Respondent, and Respondent's counsel tender to the Three Judge Panel for its approval the agreed disposition of **PUBLIC ADMONITION** with

¹ Virginia Legal Ethics Opinion 1606, which became a decision of the Virginia Supreme Court on November 2, 2016 by operation of Paragraph 10-4.A of the Rules of the Supreme Court of Virginia, states that non-refundable fees are violative of the Virginia Rules of Professional Conduct as a matter of law.

Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Three Judge Panel. Assistant Bar Counsel, Respondent and Respondent's Counsel agree that the effective date for the sanction shall be the date of entry of the Three Judge Panel's Order approving this Agreed Disposition.

The terms with which Respondent shall comply are as follows:

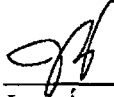
1. Within thirty (30) days of the Court's Determination, Respondent shall provide a letter to the Office of Bar Counsel certifying that he has read and reviewed the Virginia Rules of Professional Conduct.
2. Should Respondent seek to represent clients in Virginia in the future, or otherwise be admitted *pro hac vice* in Virginia, Respondent shall consult the Virginia Rules of Professional Conduct to ensure that any future fee agreements for services to be rendered in Virginia are in conformity with and in compliance with the Virginia Rules of Professional Conduct.
3. In the event that Respondent is not in compliance with the Terms of this Agreed Disposition, the alternative sanction shall be a **PUBLIC REPRIMAND w/o Terms**.
4. Enforcement of the terms set forth herein shall be pursuant to Part 6, Section IV, Paragraph 13-16.BB of the Rules of the Supreme Court of Virginia, and shall constitute a new matter.

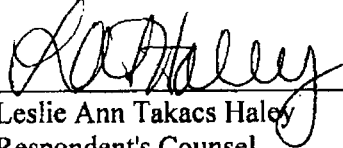
If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9.E of the Rules.

THE VIRGINIA STATE BAR

By: Paulo E. Franco, Jr.
Paulo E. Franco, Jr.
Assistant Bar Counsel

Digitally signed by Paulo E. Franco, Jr.
Date: 2021.12.09 14:21:27 -05'00'


José Ángel Baez
Respondent


Leslie Ann Takacs Haley
Respondent's Counsel