

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
SANTIAGO RICARDO NARVAIZ**

VSB DOCKET NO. 21-000-122018

AGREED DISPOSITION MEMORANDUM ORDER

On March 11, 2021 this matter was heard, telephonically, by the Virginia State Bar Disciplinary Board (“Board”) upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by Part Six, Section IV, Paragraph 13-6.H of the Rules of the Supreme Court of Virginia. The panel consisted of Yvonne S. Gibney, Chair; Sandra L. Havrilak; Donita M. King; Jennifer D. Royer; and Nancy L. Bloom, Lay Member. Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, represented the Virginia State Bar (“Bar”). Respondent Santiago Ricardo Narvaiz (“Respondent”) was present and was not represented by counsel. The Chair polled the members of the Board 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 member 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 Rule to Show Cause and Notice of Hearing, Respondent’s Disciplinary Record, and the arguments of the parties, the Board made a recommendation regarding an acceptable Agreed Disposition, to which the Respondent and counsel for the Bar agreed.

UPON CONSIDERATION of the Board’s recommendation, the Respondent and the Bar agree that the Agreed Disposition is modified to state that the agreed disposition is as follows:

[A]n indefinite suspension with the right to apply for reinstatement after 90 days. Respondent must furnish proof of his reinstatement in Maryland before he is readmitted in Virginia.

Accordingly, it is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition, as modified; and that the Respondent shall receive an indefinite suspension with the right to apply for reinstatement after 90 days, and must furnish proof of his reinstatement in Maryland before he is readmitted in Virginia, as set forth in the Agreed Disposition, as modified above, and is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective April 24, 2021.

It is further **ORDERED** that:

The Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail of the Suspension of his license to practice law in the Commonwealth of Virginia to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. The Respondent shall give such notice within 14 days of the effective date of the Suspension, and make such arrangements as are required herein within 45 days of the effective date of the Suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the Suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the Suspension, he shall submit an affidavit to that effect within 60 days of the effective date of the Suspension to the Clerk of the Disciplinary System at the Virginia State Bar.

All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Board, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

The Clerk of the Disciplinary System shall assess costs pursuant to Part Six, Section IV, Paragraph 13-9.E. of the Rules of the Supreme Court of Virginia.

It is further **ORDERED** that an attested copy of this Memorandum Order be mailed to the Respondent by certified mail, return receipt requested, at his last address of record with the Virginia State Bar at Law Offices of S. Ricardo Narvaiz, 10605 Concord St., Suite 440, Kensington, MD 20895, and also by regular and electronic mail, and a copy by electronic mail to Elizabeth K. Shoenfeld, Elizabeth K. Shoenfeld Senior Assistant Bar Counsel, .

Entered this 11th day of March 2021

VIRGINIA STATE BAR DISCIPLINARY BOARD

Yvonne S. Gibney

Digitally signed by Yvonne S.
Gibney
Date: 2021.03.11 19:36:53 -05'00'

Yvonne S. Gibney
Chair

RECEIVED

Mar 5, 2021

**VIRGINIA STATE BAR
CLERK'S OFFICE**

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
SANTIAGO RICARDO NARVAIZ

VS B Docket No. 21-000-122018

AGREED DISPOSITION

(Indefinite Suspension with Right to Apply for Reinstatement After 90 Days)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H and 13-24, the Virginia State Bar, by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, and Santiago Ricardo Narvaiz, Respondent, hereby enter into the following Agreed Disposition arising out of this matter.

I. STIPULATIONS OF FACT

1. Respondent was licensed to practice law in the State of Maryland in 1994 and in the Commonwealth of Virginia in 1996.
2. On or about February 19, 2021, Respondent and the Attorney Grievance Commission of Maryland filed a Joint Petition for Indefinite Suspension with a Right to Petition for Reinstatement in 90 Days ("the Joint Petition"). A copy of the Joint Petition is attached as Exhibit A and incorporated by reference.
3. In the Joint Petition, Respondent acknowledged that he engaged in conduct that violated the Maryland Attorneys' Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.15(a) and (d) (safekeeping), 1.16(d) (declining or terminating representation), and 8.4(a) and (d) (misconduct), and Maryland Rules 19-404, 19-407, 19-408 and 19-410.
4. On or about February 23, 2021, the Court of Appeals of Maryland entered an order indefinitely suspending Respondent's license to practice law in the State of Maryland for 90 days, effective 60 days from the date of the Order, with the right to petition for reinstatement after 90 days. A copy of the February 23, 2021 Order is attached as Exhibit B.
5. Respondent agrees that the Board should impose the same discipline imposed in Maryland, and that his reinstatement in Virginia should be contingent on his reinstatement in Maryland.

II. PROPOSED DISPOSITION

Accordingly, bar counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of an indefinite suspension with the right to apply for reinstatement after 90 days. Respondent must furnish proof of his reinstatement in Maryland before he may be readmitted in Virginia. Bar counsel and Respondent agree that the effective date for the sanction shall be April 24, 2021, which is the same date that Respondent's suspension in Maryland is set to begin. Bar counsel and Respondent agree that this sanction represents an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board.

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: _____
Elizabeth K. Shoenfeld, Sr. Asst. Bar Counsel



Santiago Ricardo Narvaiz, Respondent

ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND
200 Harry S. Truman Parkway, Suite 300
Annapolis, MD 21401

Petitioner,

v.

SANTIAGO RICARDO NARVAIZ
10605 Concord Street
Suite 440
Kensington, MD 20895

Respondent.

* IN THE
*
* COURT OF APPEALS
*
* OF MARYLAND
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* Misc. Docket AG
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* No. 73
*
* September Term, 2020
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JOINT PETITION FOR INDEFINITE SUSPENSION
WITH A RIGHT TO PETITION FOR REINSTATEMENT IN 90 DAYS

The Attorney Grievance Commission of Maryland, Petitioner, by Lydia E. Lawless, Bar Counsel, and Christine M. Celeste, Assistant Bar Counsel, its attorneys, and Santiago Ricardo Narvaiz, Respondent, by Daniel R. Hodges, Esquire, his attorney, jointly petition this Court pursuant to Maryland Rule 19-736, to indefinitely suspend the Respondent from the practice of law in Maryland with the right to petition for reinstatement in ninety days and state as follows:

1. Santiago Ricardo Narvaiz, Respondent, was admitted to the Bar of the Court of Appeals of Maryland on December 15, 1994. At all times relevant hereto, the Respondent maintained a solo practice in Montgomery County, Maryland.

2. The Respondent is aware that an investigation is currently pending involving allegations of professional misconduct. The Respondent submits his consent to an indefinite suspension with the right to petition for reinstatement in ninety days with

VS Exhibit

A

the knowledge that, if a hearing were held, sufficient evidence would be produced to establish the following facts:

On or about January 21, 2016, Lan Pham retained the Respondent to represent her in a lease dispute with her commercial landlord. Ms. Pham paid the Respondent \$1,100.00 by check the same day with the understanding that the Respondent would bill at an hourly rate. The Respondent failed to provide Ms. Pham with a written retainer agreement and failed to deposit Ms. Pham's funds into an attorney trust account, instead depositing the funds into his personal money market account.

After several communications between the Respondent and Ms. Pham's landlord failed to resolve the dispute, Ms. Pham terminated the Respondent's representation and requested that the Respondent provide her with an invoice and return any unearned fees. Over an eight month period, Ms. Pham made five additional requests for an invoice and refund. While the Respondent indicated that he would provide Ms. Pham with a refund, he failed to produce either a refund or an accounting. In or about November 2016, Ms. Pham posted a negative review of the Respondent's law practice online.

On July 9, 2017, the Respondent contacted Ms. Pham via email and told her that he would provide her with a refund if she removed her negative online review. Ms. Pham did not respond to the July 9 email.

On August 7, 2019, Ms. Pham filed a complaint with Bar Counsel. Bar Counsel's investigation revealed that the Respondent routinely used his attorney trust account to pay personal expenses, made cash withdrawals from his attorney trust account, and commingled personal funds with client funds when he failed to withdraw earned fees from his attorney trust account. Additionally, the investigation revealed that the Respondent failed to create and maintain client matter records and failed to conduct monthly reconciliations of the account. The investigation did not reveal any intentional misappropriation of client funds.

On February 12, 2021, the Respondent refunded Ms. Pham \$1,100.

3. The Respondent agrees that the conduct, as described, violated of Rules 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.15(a) and (d) (safekeeping), 1.16(d) (declining or terminating representation), and 8.4(a) and (d) (misconduct) of the Maryland Attorneys' Rules of Professional Conduct and Maryland Rules 19-404, 19-407, 19-408, and 19-410.

4. Bar Counsel acknowledges that the Respondent does not have any prior discipline and that he has brought his attorney trust account practices and record-keeping practices into conformance with the Maryland Rules. The Respondent also agrees that, upon his reinstatement to the Bar, he will retain an accountant to perform monthly reconciliations of his attorney trust account and that he will comply with requests by Bar Counsel for proof of compliance with the Rules.

5. The Respondent acknowledges that if a hearing were held the following aggravating factors would be established by clear and convincing evidence: (1) a pattern of misconduct; and (2) substantial experience in the practice of law.

6. Bar Counsel and the Respondent have conferred on an appropriate disposition and have agreed that an appropriate disposition herein would be the Respondent's indefinite suspension from the practice of law with the right to petition for reinstatement after ninety days. *Attorney Grievance Commission v. Stillwell*, 434 Md. 248, 74 A.3d 728 (2013), *Attorney Grievance Commission v. Sperling*, 380 Md. 180, 844 A.2d 397 (2004), and *Attorney Grievance Commission v. Ucheomumu*, 450 Md. 675, 150

A.3d. 825 (2016) provide support for the recommendation. In *Stillwell*, the attorney agreed to represent a client for a flat fee of \$3,000.00 and received a \$2,000.00 retainer. The attorney deposited the unearned retainer funds into his personal checking account because he did not maintain an attorney trust account. *Stillwell, supra* at 255, 74 A.3d at 732. His communication with the client was sporadic, resulting in the client terminating the representation. *Id.* at 255-56, 74 A.3d at 732-33. Upon terminating the representation, the client requested a refund of the \$2,000.00 retainer and requested return of her paperwork. Although the attorney stated that he would issue a refund within 10-14 days, he failed to do so until the client filed a complaint with Bar Counsel. *Id.* at 256-57, 74 A.3d at 733. The Court found that the attorney violated Rules 1.3, 1.4(a), 1.15(a) and (d), 1.16(d), 8.4(a) of the Rules of Professional Conduct and Maryland Rules 16-603 and 16-604. *Id.* at 267-68, 74 A.3d at 738-40. The Court found additional aggravating factors existed, including prior discipline, and suspended the attorney indefinitely with the right to petition for reinstatement after sixty days. *Id.* at 270-274; 74 A.3d at 740-43.

In *Sperling*, Bar Counsel received a notice from the attorney's bank that a check drawn the attorney's trust account was returned for insufficient funds. 380 Md. at 184, 844 A.2d at 400. Investigation showed that the attorney's trust account had a shortfall of \$42,415.91, for which the attorney could not, and did not account. *Id.* at 183-84, 844 A.2d at 399-400. The attorney brought the trust account into balance by depositing his personal funds to correct the shortfall. *Id.* at 184-85, 844 A.2d at 400. Bar Counsel's investigation showed no evidence of theft of funds, commingling of personal funds with

trust funds, and no evidence of loss to any client. *Id.* at 185, 844 A.2d at 400. The hearing court in *Sperling* noted that the attorney's failure to properly administer and provide oversight of the trust account was due to a lack of education, training, and understanding regarding proper administration and oversight of such account, that the attorney expressed remorse regarding the errors, and that the attorney took steps to address the deficient trust account administration. *Id.*, 844 A.2d at 400-01. The Court found that attorney violated Rules 1.15 and 8.4(a) and Section 10-306 of the Business Occupations and Professions Article of the Maryland Code. *Id.* at 183, 844 A.2d at 399-400. The Court imposed an indefinite suspension with the right to apply for reinstatement after 90 days. *Id.* at 193, 844 A.2d at 405.

In *Ucheomumu*, the attorney collected a \$10,000.00 retainer from a client and deposited the retainer in a personal account because he did not maintain an attorney trust account. 450 Md. at 686, 150 A.3d at 831. The attorney sent the client only one invoice and did not maintain any client ledgers. *Id.*, 180 A.3d at 831. The attorney collected and deposited funds into his personal account, including funds to be paid to third parties. *Id.* at 687, 180 A.3d at 832. Upon termination of the representation, the attorney failed to provide the client invoices and a complete copy of the client's file despite two requests for such information. *Id.* at 710, 150 A.3d at 845. The attorney also engaged in misconduct in handling additional client matters, including failing to comply with discovery requests and advancing frivolous arguments. *Id.* at 704, 710-11, 150 A.3d at 842, 845-46. The Court found that the attorney violated Rules 1.1, 1.4(b), 1.5(a), 1.15(a) and (c), 1.16(d), 3.1 and 3.4 (a) and (d), 8.4(a) and (d) and Maryland Rules 16-604 and

16-606.1 and imposed an indefinite suspension from the practice of law with the right to petition for reinstatement after 90 days. *Id.* at 717, 150 A.3d at 849-50.

On balance, considering the Respondent's misconduct, the aggravating factors, the mitigation and remedial actions taken by the Respondent, and the above-cited cases, the parties agree that an indefinite suspension, with the right to petition for reinstatement after 90 days is the appropriate disposition.

7. The Respondent consents to an indefinite suspension from the practice of law with the right to petition for reinstatement no sooner than ninety days, and such consent is freely and voluntarily rendered, pursuant to the provisions of Maryland Rule 19-736(b)(2) and is not given subject to coercion or duress.

8. The Respondent has several open client matters and requests that the indefinite suspension take effect 60 days from the date of the Court's order. The Respondent agrees that he will not undertake any new matters or provide legal advice to new clients between the date of the Court's order and the effective date of his suspension.

9. The Respondent is fully aware of the implications and effects of submitting his consent to an indefinite suspension.

10. The Respondent agrees to comply with Maryland Rule 19-742.

11. The Petitioner agrees to waive costs in this matter.

WHEREFORE, the parties pray this Honorable Court:

- A. Order the Respondent indefinitely suspended from the practice of law, effective 60 days from the date of the Court's order, with a right to petition for reinstatement after ninety days; and
- B. Grant such other and further relief as the Court deems warranted.

Respectfully submitted,



Santiago Ricardo Narvaiz
16605 Concord Street, Suite 440
Kensington, MD 20895

Respondent

/s/ Lydia E. Lawless

Lydia E. Lawless
Bar Counsel
Attorney Grievance Commission
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Phone: (410) 514-7051
lydia.lawless@agc.maryland.gov
CPF ID: 0712110441



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Attorney for Respondent

/s/ Christine M. Celeste

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christine.celeste@agc.maryland.gov
CPF ID No. 0212160163

Attorneys for the Petitioner

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Santiago Narvaiz
Santiago Ricardo Narvaiz

2/19/2021
Date

ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND

Petitioner,

v.

SANTIAGO RICARDO NARVAIZ

Respondent.

* IN THE
*
* COURT OF APPEALS
*
* OF MARYLAND
*
*
* Misc. Docket AG No. ____
*
* September Term, 2020
*
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ORDER

Upon consideration of the Joint Petition of the Attorney Grievance Commission of Maryland and the Respondent, Santiago Ricardo Narvaiz, to indefinitely suspend the Respondent from the practice of law with the right to petition for reinstatement in 90 days for violations of Rules 1.1, 1.3, 1.4, 1.15, 1.16, and 8.4(a) and (d) of the Maryland Attorneys' Rules of Professional Conduct and Maryland Rules 19-404, 19-407, 19-408, and 19-410, it is this _____ day of February, 2021;

ORDERED, that the Respondent, Santiago Ricardo Narvaiz, be indefinitely suspended from the practice of law in the State of Maryland effective 60 days from the date of this Order, with the right to petition for reinstatement after 90 days; and it is further;

ORDERED, that, 60 days from the date of this Order, the Clerk of Court shall remove the name Santiago Ricardo Narvaiz from the registry of attorneys in this Court and certify that fact to the Trustees of the Client Protection Fund of the Bar of Maryland and all Clerks of all judicial tribunals in the State in accordance with Maryland Rule 19-736(d).

Senior Judge

**ATTORNEY GRIEVANCE COMMISSION
OF MARYLAND**

v.

SANTIAGO RICARDO NARVAIZ

*** IN THE
* COURT OF APPEALS
* OF MARYLAND
* Misc. Docket AG No. 73,
* September Term, 2020**

O R D E R

Upon consideration of the Joint Petition of the Attorney Grievance Commission of Maryland and the Respondent, Santiago Ricardo Narvaiz, to indefinitely suspend the Respondent from the practice of law with the right to petition for reinstatement in 90 days for violations of Rules 1.1, 1.3, 1.4, 1.15, 1.16, and 8.4(a) and (d) of the Maryland Attorneys' Rules of Professional Conduct and Maryland Rules 19-404, 19-407, 19-408, and 19-410, it is this 23rd day of February, 2021

ORDERED, by the Court of Appeals of Maryland, that the Respondent, Santiago Ricardo Narvaiz, be indefinitely suspended from the practice of law in the State of Maryland, that effective 60 days from the date of this Order, with the right to petition for reinstatement after 90 days; and it is further

ORDERED, that, 60 days from the date of this Order, the Clerk of this Court shall remove the name of Santiago Ricardo Narvaiz from the register of attorneys in this Court and certify that fact to the Trustees of the Client Protection Fund of the Bar of Maryland and all Clerks of all judicial tribunals in this State in accordance with Maryland Rule 19-761.

/s/ Robert N. McDonald
Senior Judge

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