

VIRGINIA:

**BEFORE THE FIFTH DISTRICT, SECTION I, COMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
BRENTON DANIEL VINCENZES**

VSB DOCKET NO. 20-051-122941

AGREED DISPOSITION MEMORANDUM ORDER
PUBLIC REPRIMAND WITHOUT TERMS

On 19 July 2021, this matter was heard, telephonically, by the Fifth District, Section I, Committee of the Virginia State Bar, upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Committee as provided by Part 6, Section IV, Paragraph 13-15.F of the Rules of the Supreme Court of Virginia. The panel consisted of Cary Z. Cucinelli (Chair), David I. Gold (Member), Brendan D. Harold (Member), Richard B. Orsino (Member), and Kathleen E. Harold (Lay Member).

The Virginia State Bar was represented by Assistant Bar Counsel, Prescott L. Prince. Brenton Daniel Vincenzes was present and was not represented by counsel. The Chair polled the members of the Committee 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, Beverly Lukowsky, 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 Show Cause For Sanctions Determination, and the Private Admonition With Terms, previously entered by a Fifth District, Section I, Subcommittee on 16 July 2020, the arguments of the parties, and after due deliberation.


It is **ORDERED** that the Fifth District, Section I, Committee of the Virginia State Bar accepts the Agreed Disposition and the Respondent shall receive a Public Reprimand Without

Terms, as set forth in the Agreed Disposition, which is attached and incorporated in this Memorandum Order.

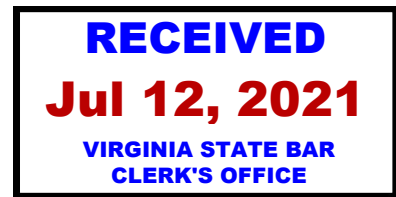
It is further **ORDERED** that the sanction is effective 19 July 2021.

Enter this Order this 16th day of August, 2021.

Fifth District, Section I, Committee
of the Virginia State Bar



Cary Z. Cucinelli,
Chair



VIRGINIA:

**BEFORE THE FIFTH DISTRICT, SECTION I, COMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
BRENTON DANIEL VINCENZES**

VS B DOCKET NO. 20-051-122941

**AGREED DISPOSITION FOR TERMS VIOLATION
PUBLIC REPRIMAND WITHOUT TERMS**

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-16.B, the Virginia State Bar, by Prescott L. Prince, Assistant Bar Counsel, and Brenton Daniel Vincenzes, Respondent, hereby enter into the following Agreed Disposition arising out of the Show Cause for a Sanction Determination by the District Fifth District, Section I, Committee.

I. STIPULATIONS OF FACT

1. On 17 July 2020, a Fifth District, Section I, Subcommittee of the Virginia State Bar imposed a Private Admonition with Terms on Brenton Daniel Vincenzes (“Respondent”) pursuant to an agreed disposition. The Subcommittee’s Determination is attached hereto as Exhibit 1.

2. The terms included one that stated:

Respondent shall submit to a random review of his trust account records by a Virginia State Bar Investigator or other agent of the bar during the course of the next 12 months for the purpose of ascertaining his compliance with the trust account maintenance and record-keeping requirements of Rule 1.15 of the Virginia Rules of Professional Conduct. Respondent shall reasonably cooperate with the Investigator or bar agent in submitting to such random review and making available bank records, cancelled checks, checkbooks, subsidiary ledgers, cash receipts journals, cash disbursements journals, evidence of reconciliations, and any and all other documents necessary for the completion of the review.

3. Respondent agreed that if any of the terms were not met, the District Committee shall impose a Public Reprimand pursuant to Part 6, § IV, 13-15.F, of the Rules of the Supreme Court of Virginia.

4. On 2 March 2021, in furtherance of the term requiring Respondent to submit to random reviews of his trust account by a VSB Investigator, Investigator Edward Bosak contacted Respondent to request a date/time to conduct the Rule 1.15 Compliance Review.
5. Respondent, replied to Investigator Bosak indicating that he would comply, but further asserted that he was immunocompromised and that the Compliance Review would have to proceed via Zoom or similar platform. Respondent and Investigator Bosak agreed that the Compliance Review would proceed by telephone on 9 March 2020 at 11:00 a.m., and that prior to the telephonic meeting, Respondent would forward to Investigator Bosak trust accounting documents for the period September through December 2020, to include:
 - IOLTA Bank Statements
 - General Ledger
 - Cash Receipts/Cash Disbursement Journals
 - Client subsidiary account ledgers
 - Monthly IOLTA Reconciliations
6. On Friday, 5 March 2021, Investigator Bosak sent Respondent a text message and email to confirm the appointment and requesting the status on the production of records. Respondent replied, via text, "Hey Ed, I should have it to you this weekend I'll text once sent. I just have to pull the file from my main computer."
7. Respondent did not forward the documents as promised.
8. On Monday, 8 March 2021, Investigator Bosak sent Respondent an email that stated, *inter alia*, "You have failed to provide me the records [as previously requested] needed to conduct your Rule 1.15 Compliance Review under the Agreed to Disposition. We will discuss this in our interview tomorrow at 11:00 am. I will call you on your known cell number of (571) 213-7397. **Failure to provide me access to these records could result in further disciplinary action to include suspension of your Virginia Law License.**"
9. Investigator Bosak attempted to call Respondent on 9 March 2021, at 11:00 a.m., on the identified cell number and again at 11:15 a.m., but Respondent failed to answer his cell.
10. On that same date (9 March 2021), Investigator Bosak sent Respondent two emails informing Respondent that the documents he produced did not comply with the demand for documents and requested that Respondent contact Investigator Bosak without delay.
11. Respondent did not respond on that date, but did forward documents to VSB Investigator Bosak on 15 March 2021, and submitted to a telephonic interview with Investigator Bosak on 16 March 2021.
12. During the course of the 16 March 2021 interview, Investigator Bosak informed Respondent that the documents provided did not comply with the requirements of RPC 1.15.

Respondent stated, “I believe I have them.” Investigator Bosak offered to meet Respondent at his office the following day to conduct the RPC 1.15 interview and to review all documents available along with the documents requested in Investigator Bosak’s 8 March 2021 email.

13. Respondent then stated that he would need time to gather the records, at which point Investigator Bosak informed him that he would file a report noting his failure to timely comply with his request for records as required under the Terms of the Private Admonition. Investigator Bosak also advised Respondent that another review would be conducted within the next 60-day period and that Respondent would need to provide all records from August 2020 to the month the review is conducted.
14. On 6 May 2021, VSB Investigator Bosak sent Respondent an email with the subject line, “(Second) Rule 1.15 Review – Virginia State Bar Request For Information” The email stated, *inter alia*:

This will be the second review under this agreement and is paramount in determining if you are complying with Rule 1.15. I must **emphasize your prompt attention** is needed in complying with my request and production of the documents requested ON/BEFORE 10 May 2021 the date requested since you are almost to the end of the period of review and as of date, it has been determined you are NOT in compliance with Rule 1.15

15. Investigator Bosak requested that Respondent produce the following documents covering the time period of March and April 2021:
 - IOLTA Bank Statements
 - Deposit slips into the IOLTA account and checks generated from the IOLTA account
 - IOLTA General Ledger
 - Cash Receipts/Cash Disbursement journals or journal of cash receipts
 - Client subsidiary account ledgers
 - Signed monthly IOLTA Reconciliations
16. On Monday, 10 May 2021, Respondent forwarded to Investigator Bosak a document that Respondent described as “an excel file of the requested documents.”
17. Immediately upon receiving the document, Investigator Bosak reviewed the document and concluded that it was non-responsive to his request in that document contained transactions that were unsupported by bank statements, deposit slips, client names, and client subsidiary ledgers. No reconciliations were produced for March or April 2021. An invoice ledger produced by Respondent was for the period of February 2014 through June 19, 2020.

18. Investigator Bosak also immediately attempted to contact Respondent to discuss his non-conforming response to the request for production of documents, but Respondent did not answer or return the call. On that same date (10 May 2021), Investigator Bosak sent Respondent two emails informing Respondent that the documents he produced did not comply with the demand for documents and requested that Respondent contact Investigator Bosak without delay.
19. Respondent did not reply to the emails from VSB Investigator Bosak.

II. NATURE OF MISCONDUCT


For the reasons set forth above, Respondent violated the terms of the Private Admonition with Terms imposed by the Fifth District, Section I, Subcommittee on 17 July 2020.

III. PROPOSED DISPOSITION

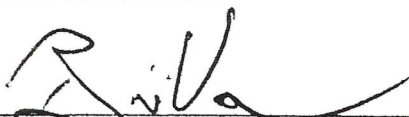
Accordingly, bar counsel and Respondent tender to the Fifth District, Section I, Committee for its approval the Agreed Disposition of a Public Reprimand as representing the appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel Fifth District, Section I, Committee.

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

THE VIRGINIA STATE BAR



Prescott L. Prince
Assistant Bar Counsel



Brenton Daniel Vincenzes, Esquire
Respondent

VIRGINIA:

**BEFORE THE FIFTH DISTRICT, SECTION I, SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
BRENTON DANIEL VINCENZES**

VS B Docket No. 20-051-116585

**SUBCOMMITTEE DETERMINATION
(PRIVATE ADMONITION WITH TERMS)**

On 16 July 2020, a meeting was held in this matter before a duly convened Fifth District, Section I, Subcommittee consisting of Colleen M. Haddow, Chair; Michael Kwang-Min Kim, Member; and Jeffrey Jack Berkin, Lay Member. During the meeting, the Subcommittee voted to approve an agreed disposition for a Private Admonition 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 Prescott L. Prince, Assistant Bar Counsel, and Brenton Daniel Vincenzes, (“Respondent”), *pro se*, counsel for Respondent.

WHEREFORE, the Fifth District, Section I, Subcommittee of the Virginia State Bar (“VSB”) hereby serves upon Respondent the following Private Admonition with Terms:

I. FINDINGS OF FACT

1. At all times relevant, the Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent was admitted to practice law in the Commonwealth on 12 October 2012.
3. On 26 August 2019, Bank of America notified the VSB that Respondent had overdrafted a check on his attorney trust account.

4. The subject check was written in the amount of \$2,500 (presented for payment on 19 August 2010). There were insufficient funds in the account at the time of presentation, causing an overdraft in the amount of \$982.61.

5. The specific reason for the overdraft was that in August 2019, Respondent agreed to provide refunds to two clients. One client was supposed to receive \$2,500 (the total amount of the fee paid by the client) and the other was to receive a refund of \$10,000 out of a total of \$12,500 paid by the client.

6. Respondent inadvertently returned the full \$12,500 to the second client. Respondent had previously performed work on that client's case, and properly provided payment to himself in the amount of \$2,500. The two withdrawals created a deficit in the trust account.

7. Documents subpoenaed in furtherance of the VSB investigation of this case included all bank records for Respondent's trust account for a period of six months (May – October 2019) along with the requisite cash receipts and disbursement journals and client subsidiary ledgers for that period. Respondent provided the requested bank statements but was not able to provide cash receipt and disbursement journals or client subsidiary ledgers.

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 Property¹

* * * * *

(b) Specific Duties. A lawyer shall:

¹ This Private Admonition With Terms cites the version of Rule of Professional Conduct 1.15 that was in effect as of 19 August 2019, the date of the overdraft.

- (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;
 - (4) 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.

* * * * *

- (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. PRIVATE ADMONITION WITH TERMS

Accordingly, it is the decision of the Subcommittee to impose a Private Admonition with

Terms. The terms are as follows:

1. Respondent shall review Virginia Rule of Professional Conduct 1.15 and the VSB publication Lawyers and Other People's Money, 5th Edition, available on the Virginia State Bar's website at www.vsb.org. This term shall be met by July 31, 2020. Upon completion of this Term, Respondent shall so certify in writing to the bar counsel assigned to this case.
2. Respondent shall submit to a random review of his trust account records by a Virginia State Bar Investigator or other agent of the bar during the course of the next 12 months for the purpose of ascertaining his compliance with the trust account maintenance and record-keeping requirements of Rule 1.15 of the Virginia Rules of Professional Conduct. Respondent shall reasonably cooperate with the Investigator or bar agent in submitting to such random review and making available bank records, cancelled checks, checkbooks, subsidiary ledgers, cash receipts journals, cash disbursements journals, evidence of reconciliations, and any and all other documents necessary for the completion of the review.

If any of the terms are not met as set forth above, Respondent agrees that the District Committee shall impose a Public Reprimand pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia. 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.

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 I, SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

Colleen M. Haddow

Colleen M. Haddow
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on July 17, 2020, a true and complete copy of the Subcommittee Determination (Private Admonition With Terms) was sent by certified mail to Brenton Daniel Vincenzes, Respondent, at Vincenzes Law PLLC, Suite 360, 11325 Random Hills Road, Fairfax, VA 22030-0972, that being Respondent's last address of record with the Virginia State Bar.

for 

Prescott L. Prince
Assistant Bar Counsel