

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Supreme Court Case
No. SC16-1022

v.

The Florida Bar File
No. 2016-50,719(17A)OSC

PETER G. STAMAS,

Respondent.

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. **SUMMARY OF PROCEEDINGS**

Pursuant to the undersigned being duly appointed as Referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

On June 8, 2016, The Florida Bar filed its Petition for Rule to Show Cause and the Court issued its Order to Show Cause on June 9, 2016. The Respondent submitted his Response to the Order to Show Cause on June 24, 2016. The Florida Bar filed a Response to the Response on July 5, 2016. I was appointed to act as Referee in this matter pursuant to a Supreme Court of Florida Order dated October 13, 2016 and an October 18, 2016 Order from Jeffrey Colbath, Chief Judge of the 15th Judicial Circuit.

The parties have presented to me a Conditional Plea for Consent Judgment, which has been approved by The Florida Bar Board of Governors' Designated Reviewer. After due deliberation, I recommend that Respondent's Conditional Plea for Consent Judgment be approved, for the reasons set forth herein.

The Florida Bar was represented in this matter by Linda Gonzalez and Randi Klayman Lazarus, Bar Counsel, and the Respondent was represented by Kevin P. Tynan of Richardson & Tynan, P.L.C. All of the aforementioned pleadings, responses thereto, exhibits received in evidence, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

1. Jurisdictional Statement. Respondent is, and at all times mentioned herein was, a member of The Florida Bar albeit suspended by Court order dated August 18, 2015, subject to the jurisdiction of the Supreme Court of Florida.

2. Narrative Summary of Case.

A. The Respondent, Peter G. Stamas, was admitted to The Florida Bar on July 2, 2007.

B. On August 18, 2015, this Court entered an Order suspending the Respondent from the practice of law for failing to respond to a Bar inquiry in Florida Bar file number 2015-50,784(17A), which required the Respondent to

cease the practice of law by September 17, 2015. Also see Supreme Court Case No. SC15-1110.

C. Pursuant to R. Regulating Fla. Bar 3-5.1(h), a suspended lawyer is obligated to notify their clients of said suspension, along with the courts and opposing counsel and then provide an affidavit documenting compliance with this requirement.

D. The Respondent was not immediately aware that he had been suspended by the Court due to The Respondent's own failure to review communications from the Bar and ultimately this Court. Upon being informed by a colleague that he had been suspended, he ceased accepting new business and took steps to inform the few active clients that he was representing at that time and to secure new counsel for his clients.

E. He admittedly did appear in Court, post his knowledge of the suspension, to personally advise opposing counsel, the trial judge and his client of his suspension. On these limited occasions where he did appear in Court, he did not take any action relative to the client's matter or practice law in any manner.

F. On February 2, 2017, the Referee in this action granted summary judgment in favor of The Florida Bar as to the above referenced matters and specifically found that these actions were in derivation of the Supreme Court's

Order of Suspension and constituted contumacious conduct warranting a disciplinary sanction.

III. RECOMMENDATIONS AS TO VIOLATION

Pursuant to the February 2, 2017 Order on The Florida Bar's Motion for Summary Judgment, the Referee found that the Respondent's actions were in violation of his Order of Suspension and that he therefore engaged in contumacious conduct warranting a disciplinary sanction.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards from the Florida Standards for Imposing Lawyer Sanction prior to recommending discipline:

6.22 Suspension is appropriate when a lawyer knowingly violates a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

7.2 Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Weil, 575 So.2d 202 (Fla. 1991): A lawyer was suspended from the practice of law for failing to pay his Bar dues for two consecutive years but continued to practice law despite actual knowledge of his suspension. The lawyer was continuously employed as a City Attorney during his suspension. Based upon these facts a referee recommended disbarment. The Supreme court found that the aggravating factors of failing to apply for reinstatement and failure to make an appearance in the disciplinary proceedings reflected his indifference to professional regulations, and that two prior public reprimands warranted a 6-month suspension.

The Florida Bar v. Wasserman, 654 So.2d 905 (Fla. 1995): A lawyer was suspended for 60-days for engaging in the practice of law despite actual knowledge that he had been suspended for failing to pay his Bar dues.

The Florida Bar v. Golden, 563 So.2d 81 (Fla. 1990): Respondent was suspended for 1 year for counseling and attempting to assist a client in requesting two continuances, while serving a 90-day suspension from the practice of law. This lawyer had previously been disciplined in three cases with: a public reprimand, a 10-day suspension, and a 90-day suspension.

The Florida Bar v. Neckman, 616 So.2d 31 (Fla. 1993): The lawyer was publically reprimanded for one instance of practice post disbarment.

The Florida Bar v. Roberts, 789 So.2d 284 (Fla. 2001): The attorney was suspended for 90 days for practicing law post suspension, when he was aware he was suspended due to failing to report required Continuing Legal Education hours. The referee's recommendation was appropriate although that lawyer had been previously disciplined, where previous misconduct was distinctive, and he did not show a knowing indifference to the disciplinary system.

The Florida Bar v. Brigman, 322 So.2d 556 (Fla. 1975): A lawyer was suspended for an additional six months after having practiced law despite being suspended.

The Florida Bar v. O'Connor, 945 So.2d 113 (Fla. 2006): On very distinct facts, a lawyer was denied the ability to seek reinstatement for a one-year period (akin to a one-year suspension) for practicing post an emergency suspension that he mistakenly believed had terminated by operation of law.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

The parties have presented me with a Conditional Guilty Plea For Consent Judgment that recommends that the Respondent be suspended from the practice of law for a two-year period. I have considered the precedent set forth above and understand that the distinguishing factor (other than evidence of mitigation discussed below) is that the Respondent did not initially have actual knowledge of

the suspension order that he violated by appearing in court on several occasions prior to his actual knowledge and that he did appear in court on several occasions thereafter but his appearance was limited to advising the court that he was suspended and could not practice at that time. No real action was taken on any of these cases, which is an important consideration. Notwithstanding the foregoing, he had constructive notice of his suspension and should have been aware of his suspension. See R. Regulating Fla. Bar 3-7.11(c). Accordingly, the Respondent's actions warrant the imposition of a disciplinary sanction.

In *The Florida Bar v. Kelly*, 813 So.2d 85 (Fla. 2002), the Supreme Court stated that in selecting an appropriate discipline the fundamental issues that must be addressed are: fairness to both the public and the accused; sufficient harshness in the sanction to punish the violation and encourage reformation; and that the severity of the sanction is appropriate to function as a deterrent to others who might be tempted to engage in similar misconduct. Also see *The Florida Bar v. Pahules*, 233 So.2d 130 (Fla. 1970). I find that the sanction being recommended in the Conditional Guilty Plea For Consent Judgment to meet these precepts and therefore recommend the following disciplinary sanction be imposed:

- A. A suspension of two (2) years from the practice of law;

B. A requirement that the Respondent, within, thirty (30) days of the signing of the Conditional Guilty Plea For Consent Judgment, make the following refund of the legal fees paid to him:

1. Crystal Burrows in the amount of \$1,500.00;
2. Frank Paul Westwood in the amount of \$5,500.00; and

C. Payment of The Florida Bar's costs in this matter.

VII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following personal history of Respondent, to wit:

Age: 38

Date admitted to the Bar: July 2, 2007

Prior Discipline:

Supreme Court Case No. 15-1110: Indefinite suspension for failing to provide a response to a disciplinary inquiry.

Supreme Court Case No. 16-26: Ninety-one-day suspension for making a misrepresentation of fact in a pleading.

Supreme Court Case No. 16-2092: Public Reprimand for failing to timely provide a response to a disciplinary inquiry.

Mitigating Factors: Florida Standard for Imposing Lawyer Sanctions 9.32:

- (b) absence of a dishonest or selfish motive;
- (e) personal or emotional problems (family medical issues);
- (g) otherwise good reputation and character; and
- (l) remorse.

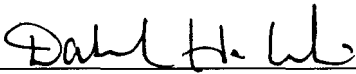
VIII. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs	\$1,250.00
Bar Counsel Travel Costs	69.10
Court Reporter Costs	<u>335.00</u>
TOTAL	\$1,654.10

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within thirty days of said judgment becoming final, Respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

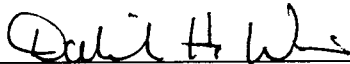
Dated this 3rd day of April, 2017.



Honorable Daliah H. Weiss, Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing was forwarded to the Clerk of the Supreme Court of Florida; Supreme Court Building; 500 South Duval Street, Tallahassee, FL 32399-1927 and that true copies of the foregoing have been furnished by U.S. mail and/or via e-mail to: Linda I. Gonzalez, Bar Counsel, The Florida Bar, Ft. Lauderdale Branch Office, Lake Shore Plaza II, 1300 Concord Terrace, Suite 130, Sunrise, FL 33323, (lgonzalez@flabar.org; dmacha@flabar.org); Adria E. Quintela, Staff Counsel, The Florida Bar, 1300 Concord Terrace, Suite 130, Sunrise FL 33323 (aquintel@flabar.org); and Kevin P. Tynan, Esq., Attorney for the Respondent, at 8142 N. University Drive, Tamarac, FL 33321 (ktynan@rtlawoffice.com; cbrooks@rtlawoffice.com), on this 3rd day of April, 2017.



Honorable Daliah H. Weiss, Referee