

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Supreme Court Case No.
SC18-1004

The Florida Bar File Nos.
2018-00,145(4C) and 2018-00,215(4C)

CLERK, SUPREME COURT V.
PAUL H. GREEN JR.,

Respondent.

BY _____

REPORT OF REFEREE

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 22, 2018, The Florida Bar filed its Complaint against Respondent as well as its Request for Admissions in these proceedings. On July 17, 2018, Respondent filed his Answer. Thereafter, the parties agreed to resolve this matter and have submitted an executed Consent Judgment for the court's consideration. The court has now had a chance to review the Consent Judgment and hereby ratifies it as the basis for this Report. All items properly filed including pleadings, recorded testimony (if transcribed), exhibits in evidence and the Report of Referee

FILED
JOHN A. TOMASINO

AUG 31 2018

CLERK, SUPREME COURT V.

constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

Narrative Summary of Case. Based on the parties' Consent Judgment, I find:

COUNT I – TFB FILE NO. 2018-00,145(4C) COMPLAINT OF STEPHANIE SUSSMAN

1. Ms. Parker, as the sole owner, formed d/b/a "Parker & Green, P.A" with Respondent.
2. Throughout their partnership, Respondent took unwarranted draws from the operating account used the firm credit card for personal matters.
3. Ms. Parker alleges that she requested that Respondent dress appropriately and come to work on a regular basis.
4. Respondent missed work days and took vacations without previously discussing them with Ms. Parker.
5. Ms. Parker told Respondent that unless he immediately changed his conduct, he would be terminated.

6. Respondent posted political comments that Ms. Parker deemed inappropriate on both the firm's and his personal Facebook pages.

7. In the midst of his divorce, Respondent sent a text message regarding his wife's attorney that said, "Tell Dana Price I hope she dies of dirty Jew AIDS."

8. Based on Respondent's conduct, Ms. Parker fired Respondent and changed the locks on the office door.

9. Prior to joining the firm, Respondent purchased and trademarked "itspersonal.com." During his employment, the firm used the domain. After his termination, Respondent changed the password to his domain and the affiliated email accounts used by the firm thus depriving the firm of access to its email.

10. Ms. Parker turned off Respondent's phones.

11. Once Respondent realized his phones were disconnected, he agreed to and did let the office back into their email account for a reasonable period of time to transfer their data in exchange for turning his phones back on.

12. After a period of time, Respondent again blocked access to the firm's email directing all incoming emails to himself.

13. On September 7, 2017, after being informed that Ms. Parker had purchased a new domain name, Respondent stated in an email, "I'm going to turn the website [Parker & Green, P.A.] into our story and keep it live."

14. On or about September 5, 2017, Respondent posted the following on Parker & Green, P.A.'s Facebook page:

If you're wondering what's going on...Patricia Parker was Baker Acted last Saturday. She has sent letters to all of you clients saying everything was hacked. It wasn't but please be careful if you decide to go with the law office of Patricia L. Parker. Nothing was hacked but she is trying to get off her suicidal thoughts and is convincing clients she is ok. Don't worry, my email still works and I am working with the Florida Bar to make sure she gets the help she needs. If you are a client, do not pay a bill until the Florida Bar decides what they will be doing with Ms. Parker. Any correspondence by Alix Diaz who has hacked email accounts owned by Mr. Green, should also be taken with a degree of skepticism. She's been off her meds for a few months and things have finally taken their toll. I think her impending divorce to her husband for infidelity is part of the problem. If you're trying to reach Mr. Green, he can still be reached at pgreen@itspersonaljax.com as he owns the domain and website.

15. A short time later in a second post on the firm's page, Respondent stated:

Everyone should make sure their loved ones don't need any mental help. Please check. If your brother, sister, father, mother, or business partner threaten to commit suicide ... please get them help, before they hurt someone, themselves, or a trusted client. Luckily, Mr. Green doesn't have that problem.
pgreen@itspersonaljax.com.

16. Despite these statements, Respondent did not contact The Florida Bar.

17. Respondent, who indicated a willingness to be evaluated by FLA, Inc., scheduled an appointment, and then failed to appear.

COUNT II – 2018-00,215(4C)
COMPLAINT OF KAREN BATES

18. In May 2017, Karen Bates hired Parker & Green to represent her in a divorce proceeding.

19. On Sept 17, 2017, Ms. Bates saw Respondent at Everbank Field.

20. Ms. Bates told Respondent that she had received some information that the firm email addresses and website were changing.

21. Respondent stated that Mrs. Parker had broken ethics rules by not telling Ms. Bates that the firm was splitting up.

22. Respondent then stated that the firm was splitting because Mrs. Parker has been Baker Acted and had tried to commit suicide.

23. Ms. Bates alleges that Respondent further told Ms. Bates that if she would make a statement about Mrs. Parker he would finish her case for free.

24. On September 19, 2017, Respondent sent Ms. Bates a text message asking to get together over drinks to discuss Mrs. Parker and her case.

25. Over the next few hours, Ms. Bates received numerous text messages from Respondent asking for her address so he could pick her up and take her out for drinks.

26. Respondent even stated he would just come over and have wine at Ms. Bates' home.

27. Ms. Bates stopped responding to his calls and texts.

28. On September 26, 2017, Respondent sent Ms. Bates an email stating that he had decided to no longer practice law.

29. Respondent also stated that he would give Ms. Bates a referral if she wished.

30. Ms. Bates did not respond.

31. After Ms. Bates filed her Bar complaint, Respondent approached her while she was working as a bartender, slammed his hand down on the bar and said, "Good luck with that complaint."

III. RECOMMENDATIONS AS TO GUILT.

Based on the parties' Consent Judgment, I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar:

COUNT I – TFB FILE NO. 2018-00,145(4C)

COMPLAINT OF STEPHANIE SUSSMAN

3-4.3(Misconduct), 4-5.8(c)&(d)(Procedures for Lawyers Leaving Law Firms and Dissolution of Law Firms), 4-8.1(c)(Commit an Act that Adversely Reflects on the Applicant's Fitness to Practice Law), 4-8.4(a) (Misconduct), and 4-8.4(c)(Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation).

COUNT II – 2018-00,215(4C)

COMPLAINT OF KAREN BATES

3-4.3(Misconduct), 4-5.8(c)&(d)(Procedures for Lawyers Leaving Law Firms and Dissolution of Law Firms), 4-8.1(c)(Commit an Act that Adversely

Reflects on the Applicant's Fitness to Practice Law), 4-8.4(a) (Misconduct), and 4-8.4(c)(Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation).

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following standards prior to recommending discipline:

5.1 FAILURE TO PRESERVE PEERSONAL INTEGRITY

5.12 Suspension is appropriate when a lawyer knowingly engages in criminal conduct which is not included within Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

6.3 IMPROPER COMMUNICATIONS WITH INDIVIDUAL IN THE LEGAL SYSTEM

6.32 Suspension is appropriate when a lawyer engages in communication with an individual in the legal system when the lawyer knows that such communication is improper, and causes injury or potential injury to a party or causes interference or potential interference with the outcome of the legal proceeding.

7.0 VIOLATIONS OF OTHER DUTIES OWED AS A PROFESSIONAL

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.

9.0 AGGRAVATION

- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (i) substantial experience in the practice of law.

V. CASE LAW

I considered the following case law prior to recommending discipline:

Fla. Bar v. Forrester, 818 So. 2d 477 (Fla. 2002). Sixty-day suspension and one year of probation for attorney who, during a deposition, concealed a document and then lied about its whereabouts. The attorney's conduct was intentional and she had previous discipline -- admonishment, 24 months' probation, and a 90-day suspension.

Fla. Bar v. Ratiner, 46 So. 3d 35 (Fla. 2010). Sixty-day suspension and Public Reprimand for attorney's conduct during a deposition in lambasting counsel over the deposition table and tearing up the evidence sticker and flicking it at opposing counsel.

Fla. Bar v. Winters & Yonker, 104 So. 3d 299 (Fla 2012). Sixty-day & 90-day suspensions. An attorney's conduct while not acting as an attorney can subject him to disciplinary proceedings -- Associate attorneys' appropriating employer law firm's client files for their personal use constituted theft and, therefore, violated rules: (1) prohibiting a lawyer from engaging in activity that inherently reflects

adversely on a lawyer's honesty, trustworthiness, or fitness as a law, (2) from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, (3) from engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice. One attorney was suspended for 60 days and the other for 91 days.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

Based on the parties' Consent Judgment, I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that be disciplined by:

- A. Sixty-day suspension from the practice of law.
- B. Respondent will contact Florida Lawyers Assistance, Inc. (FLA, Inc.), at 800-282-8981 for an evaluation within 30 days of the order of the Supreme Court of Florida. Within 60 days of the Order, Respondent will provide the Bar's headquarters office with proof that Respondent has scheduled an evaluation. Respondent will abide by all recommendations made by FLA, Inc. including, but not limited to, entering into a rehabilitation contract. Should a rehabilitative contract result from the FLA, Inc. evaluation, Respondent agrees to be placed on probation for the period of the FLA contract, but such probationary period shall not exceed five years.

C. Respondent will pay a Florida Lawyers Assistance, Inc., registration fee of \$250.00 and a probation monitoring fee of \$100.00 a month to The Florida Bar's headquarters office. All monthly monitoring fees must be remitted no later than the end of each respective month in which the monitoring fee is due. All fees must be paid to the Bar's headquarters office in Tallahassee. Failure to pay shall be deemed cause to revoke probation.

D. Payment of the Bar's costs.

VII. PERSONAL HISTORY, PAST DISCIPLINARY RECORD

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

Personal History of Respondent:

Age: 37 years old

Date admitted to the Bar: April 28, 2008

Aggravating Factors:

Prior Discipline: None

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

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

| | |
|---------------------|------------|
| Investigative Costs | \$1,186.07 |
| Administrative Fee | \$1,250.00 |
| TOTAL | \$2,436.07 |

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be deemed delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 20th day of August 2018.

/s/ Howard Mason Maltz
Honorable Howard Mason Maltz
Circuit Court Judge and Referee
Richard O. Watson Judicial Center
4010 Lewis Speedway Ste 344
Saint Augustine, FL 32084-8637

Original To:

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