

**IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)**

**THE FLORIDA BAR,  
Complainant,**

**Supreme Court Case  
No. SC17-1391**

**v.**

**JONATHAN STEPHEN  
SCHWARTZ,  
Respondent.**

**The Florida Bar File  
No. 2016-70,106 (11J)**

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**RESPONDENT’S NOTICE OF INTENT TO SEEK REVIEW OF REPORT  
OF REFEREE**

Petitioner/Respondent Jonathan Schwartz, pursuant to Article V, Section 15 of the Constitution of the State of Florida, and Rule 3-7.7(c) of the Rules Regulating The Florida Bar, hereby petitions for review of the following:

1. The Report of Referee dated November 15, 2020, and filed on November 16, 2020. The Report of Referee is attached. Those portions of the Report of Referee sought to be reviewed are:

- (a) Referee’s recommended discipline.

Respectfully submitted,

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**BENEDICT P. KUEHNE**  
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### **CERTIFICATE OF SERVICE**

I certify this document was emailed on December 15, 2020, to:

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**BENEDICT P. KUEHNE**

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**ATTACHMENT**

OCT 16 2020

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THE FLORIDA BAR,  
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No. 2016-70,106(11J)

JONATHAN STEPHEN SCHWARTZ,  
Respondent.

\_\_\_\_\_ /

**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 July 27, 2017, The Florida Bar filed its Complaint against Respondent in these proceedings. The Honorable Celeste Hardee Muir was initially appointed as the referee in this cause. On April 4th and 18th, 2018, a final hearing was held in this matter. On May 21, 2018, the referee served her Report of Referee finding the Respondent not guilty of professional misconduct.

The Referee's report was appealed by The Florida Bar and the parties' briefs were submitted to the Florida Supreme Court. On November 7, 2019, this Court entered an Opinion specifically disapproving the referee's findings of fact and

recommendation that Respondent did not violate any Bar rules. By Order dated the same day, the Court further ruled that the matter be remanded to a newly appointed referee for further proceedings.

On November 25, 2019, the undersigned was appointed as the new referee. On August 21, 2020, a sanctions hearing was held in this cause.

All items properly filed including pleadings, recorded testimony (if transcribed), exhibits in evidence and the report of referee constitute the record in this case and are forwarded to the Supreme Court of Florida.

At the sanctions hearing, Respondent submitted documentary evidence in the form of letters of support and good works, and presented the testimony of these witnesses: Pamela Barrett; Nancy Browne; Richard Browne; Hon. Al Milian, Circuit Judge (appearing pursuant to subpoena); Dr. Bruce Frumkin; Crystal Beale; Michael Graham; William Heck; Gloria Heck; Patricia Rossato; Michelle Clarke; Stella Schwartz; and Respondent Jonathan Stephen Schwartz.

The following attorneys appeared: Jennifer R. Falcone, Esq., Bar Counsel appeared for The Florida Bar, and for the Respondent, Benedict P. Kuehne, Esq., and Richard Baron, Esq. appeared, and Barry Wax, Esq., also appeared.

## 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. As previously noted, in its November 7, 2019 Opinion, the Florida Supreme Court held, “We disapprove the referee’s findings of fact and recommendation that Schwartz did not violate any Bar rules in his use of two defense exhibits during a pre-trial deposition, and we remand to a newly appointed referee for further proceedings consistent with this opinion.” *The Florida Bar v. Schwartz*, 284 So.3d 393, 394 (Fla. 2019)

Accordingly, the narrative summary of the case is taken directly from the factual and legal findings made by the Florida Supreme Court in its November 7, 2019, Opinion:

Schwartz is primarily a criminal defense attorney who was admitted to The Florida Bar (Bar) in 1986. He became the subject of these Bar proceedings based upon his use of two defense exhibits during a pretrial deposition conducted on February 13, 2015, while representing the defendant in the case of *State v. Virgil Woodson*, Circuit Case No. 13-2013-CF-012946-0001-XX (Miami-Dade County, Florida). The exhibits at issue included two photocopied versions of black and white police photo lineups in which the victim had originally signed her name and identified the defendant by circling both the defendant's photograph and the designation below it of subject number five. The exhibits also included the signature of the police officer who conducted the photo lineup. The disciplinary issue here centers on the fact that Schwartz altered the photo lineup by replacing his client's image in one exhibit with the image of an alternate suspect whom witnesses other than the victim had identified as the perpetrator and by changing the client's image in the other

exhibit by imposing the alternate subject's hairstyle on the client's image. Although the images in the exhibits were altered in this manner, they nonetheless retained the circle around subject number five and the signatures of the victim and police officer below the photographs.

*Id.* at 395. In discussing the prior Referee's findings and recommendations, the Court noted the undisputed facts that Respondent "knowingly and deliberately created the defense exhibits by altering photocopies of the police lineups and showing them to the victim at the deposition." *Id.* at 396.

Accordingly, the Court held:

Our consideration of the defense-altered exhibits leads to the inevitable conclusion that they are deceptive on their face. . . . The exhibits retained the witness's circle identifying subject number five in the lineup as the perpetrator and the victim's and detective's signatures. By their very nature, they conveyed the false message that the substituted photograph was the photograph that had been previously identified by the victim.

*Id.* at 396-397.

### III. RECOMMENDATIONS AS TO GUILT.

In the Court's Opinion entered on November 7, 2019, Respondent was found guilty of violating the following Rules Regulating The Florida Bar:

Rule 3-4.3 (Misconduct and Minor Misconduct), and

Rule 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

### IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I reviewed and considered the following Standards prior to recommending discipline:

5.1 FAILURE TO MAINTAIN PERSONAL INTEGRITY

(a)(6) Disbarment is appropriate when a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

(b) Suspension. Suspension is appropriate when a lawyer knowingly engages in . . . other conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

6.1 FALSE STATEMENTS, FRAUD, AND MISREPRESENTATION

The following sanctions are generally appropriate in cases involving conduct that is prejudicial to the administration of justice or that involves dishonesty, fraud, deceit, or misrepresentation:

(a) Disbarment is appropriate when a lawyer:

(1) with the intent to deceive the court, knowingly makes a false statement or submits a false document; or

(2) improperly withholds material information and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.



(b) Suspension. Suspension is appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld and takes no remedial action.

## 700 VIOLATIONS OF OTHER DUTIES OWED AS A PROFESSIONAL

### 7.1 DECEPTIVE CONDUCT OR STATEMENTS AND UNREASONABLE OR IMPROPER FEES

(a) Disbarment is appropriate when a lawyer intentionally engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another and causes serious or potentially serious injury to a client, the public, or the legal system.

(b) 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.

## 800 PRIOR DISCIPLINE ORDERS

### 8.1 VIOLATION OF COURT ORDER OR ENGAGING IN SUBSEQUENT SAME OR SIMILAR MISCONDUCT

The following sanctions are generally appropriate in cases involving prior discipline:

(a)(2) Disbarment is appropriate when a lawyer has been suspended for the same or similar misconduct and intentionally engages in further similar acts of misconduct.

(b) Suspension is appropriate when a lawyer has been publicly reprimanded for the same or similar conduct and engages in a further similar act of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.

#### V. CASE LAW

I considered the following case law prior to recommending discipline:

In *The Florida Bar v. Adorno*, 60 So.3d 1016, 1035 (Fla. 2011), the Court reiterated its obligation to impose sanctions consistent with the purposes of lawyer discipline. In *Adorno*, the Supreme Court imposed a 3-year rehabilitative suspension arising from the lawyer's breach of a fiduciary duty owed to the putative class that prejudiced the class, when the lawyer settled on behalf of individual plaintiffs to the detriment of the putative class. The Supreme Court found that the attorney's actions regarding the disproportionate settlement amount, as well as the terms of the settlement, created a conflict of interest that prejudiced the remaining class members. Further, the lawyer abandoned the putative class via the settlement negotiations, hid the terms of the settlement agreement from the class through a nondisclosure agreement, and stopped litigating on behalf of the class as a result of a standstill agreement. The sanction of a 3-year suspension was deemed required since the lawyer's severe misconduct was deceitful and deceptive, prejudicial to the administration of justice, and inured to the lawyer's personal, financial benefit at the

expense of his clients. I do not consider *Adorno* to be analogous to this case.

In *The Florida Bar v. Cox*, 794 So.2d 1278 (Fla. 2001), the Court determined that, based upon significant mitigation presented, a one year suspension was the appropriate sanction for a criminal prosecutor with no prior discipline and great reputation, who allowed a fearful confidential informant to testify under a false name. There, the offending lawyer, a federal prosecutor, engaged in deceptive misconduct in direct response to a court order during a case that impacted the administration of justice and endangered the fairness of the proceedings against the defendant. The prosecutor gave a critical witness a fictitious name and assured her that she would not have to testify at trial, which she feared because of a Florida custody dispute with her former husband. Before trial, the magistrate ordered respondent to provide the informant's true name to the defense. Although that prosecutor knew the woman's name, he nonetheless informed the defense, the court, and the jury venire that the woman's name was the fictitious one. Her identity was only revealed midtrial, resulting in the defense moving for and receiving a mistrial, then dismissal of the indictment. The Florida Supreme Court concluded that the prosecutor's misconduct caused serious injury to the legal system and potentially serious injury to the defendant. While disbarment was the presumptive penalty, substantial evidence of mitigation resulted in the lawyer's suspension from the practice of law for a period of one (1) year. I do not consider *Cox* to be analogous

to this case because Respondent's conduct in this case was not presented to the tribunal.

- In *The Florida Bar v. Dunne*, 2020 WL 257785, the Court accepted a consent judgment imposing a one year suspension on a prosecutor who engaged in gamesmanship during the pre-trial discovery process by withholding information relevant to the defendant's insanity defense prior to deposing the defendant's mental health experts. When confronted by defense counsel and the court, Dunne misrepresented what she knew and when she knew it. Dunne had no prior disciplinary history. Although both the prosecutor and defense attorney must follow The Florida Bar Rules, I do not consider this case to be analogous to Respondent's case because the role of Dunne, as the prosecutor, is different than the role of Respondent as defense counsel.

- In *The Florida Bar v. Dupee*, 160 So.3d 838 (Fla. 2015), the Court determined a one year suspension was the appropriate sanction for an attorney's filing of an inaccurate financial statement of her client in a dissolution action knowing it was inaccurate, and for her withholding relevant financial documents requested in discovery. *Dupee* also failed to disclose the location of a coin collection over which there was disputed ownership. Respondent, *Dupee*, had no prior disciplinary history and presented evidence of good character and reputation. Likely, in a family law case, when assets are hidden, the tribunal cannot equitably

distribute or even consider those assets. I do not consider this case to be analogous to Respondent's case because in Respondent's case the initial lineup and the altered lineup were both available to the prosecutor at some point.

In *The Florida Bar v. Whitney*, the Florida Supreme Court imposed a one year suspension on an attorney, who engaged in dishonest and deceitful discovery tactics in his own defense in a legal malpractice action. The repeated misconduct in *Whitney* included that the disciplined lawyer making false representations to the tribunal in response to opposing counsel's motion to compel and not producing the required documents sought by the request for production. The lawyer's misconduct encompassed numerous instances pertaining to both client representation and discovery-related violations, warranting a one-year suspension. I do not consider *Whitney* to be analogous to this case. When discovery is hidden, the tribunal has no way to weigh or to consider the evidence.

- In *The Florida Bar v. Hmielewski*, 702 So.2d 218 (Fla. 1997), Respondent withheld his knowledge of the location of the records during the discovery process and accused the hospital of deliberately concealing the records, when the hospital was unable to produce same. *Hmielewski* even allowed his expert to file a report stating that the hospital's inability to produce the records in discovery was evidence of the hospital's malfeasance. This case is not analogous because

records were not hidden in this case, and the prosecutor had access to the original line-up.

- *In the Matter of Gross*, 759 N.E.2d 288 (Mass. 2001), at a calendar call for the case, the respondent allowed an alibi witness to come forward and impersonate the criminal defendant at the podium. The respondent hoped to obtain a misidentification that he could use in his defense of the case. When confronted, the respondent lied, and also requested the defendant and the alibi witness to lie and indicate they were simply “confused.” In exchange for an agreement not to prosecute, the alibi witness testified that respondent suggested the impersonation scheme. The Massachusetts Supreme Court ordered that the respondent be suspended for a period of eighteen (18) months. This case is not analogous because the conduct did not occur in front of a tribunal, and Respondent did not attempt to cover up his misconduct or enlist others to lie on his behalf.

- In *The Florida Bar v. Bosecker*, 259 So.3d 689, 699 (Fla. 2018), the Court reiterated the long standing principle that, “the Court views cumulative misconduct more seriously than an isolated instance of misconduct, and cumulative misconduct of a similar nature warrants an even more severe discipline than might dissimilar conduct.”

- In *Fla. Bar v. Walkden*, 950 So.2d 407, 410 (Fla. 2007), the Court stated, “As noted by the Bar, this Court views cumulative misconduct more seriously

than an isolated instance of misconduct. *Fla. Bar v. Carlon*, 820 So.2d 891, 899 (Fla.2002). In determining the appropriate discipline, we consider prior misconduct and cumulative misconduct, and treat cumulative misconduct more severely than isolated misconduct. Disbarment is appropriate where, as here, there is a pattern of misconduct and a history of discipline. Additionally, cumulative misconduct of a similar nature warrants an even more severe discipline than might dissimilar conduct. *Fla. Bar v. Vining*, 761 So.2d 1044, 1048 (Fla.2000).”

- In *The Florida Bar v. Peterson*, 248 So.3d 1069, 1081 (Fla. 2018), the Court reiterated general principles for imposing lawyer sanctions, and stated, “significantly, the Court has moved towards imposing harsher sanctions.” (citing *Fla. Bar v. Rosenberg*, 169 So.3d 1155, 1162 (Fla. 2015) (“[S]ince the decision in [*Fla. Bar v.] Bloom*[, 632 So.2d 1016 (Fla. 1994) ], the Court has moved toward imposing stronger sanctions for unethical and unprofessional conduct.”); *Fla. Bar v. Rotstein*, 835 So.2d 241, 246 (Fla. 2002) (“In recent years, this Court has moved towards stronger sanctions for attorney misconduct.”). See also *The Florida Bar v. Adler*, 126 So.3d 244, 247 (Fla. 2013)(“Since then, this Court has moved towards stronger sanctions for attorney misconduct.”).

- In *The Florida Bar v. Cocalis*, 959 So.2d 163 (Fla. 2007), the Court considered findings by the Fourth District Court of Appeal that condemned the attorney’s actions as being unprofessional and misleading. The Court found the

lawyer violated Rule 3-4.3 (any act that is unlawful or contrary to honesty and justice). The Court determined that a public reprimand and participation in the Bar's practice and professionalism program on the terms recommended was the appropriate sanction.

- *The Florida Bar v. MacNamara*, 132 So.3d 165, 171 (Fla. 2013), involved repeated dishonesty by a respondent during litigation and resulted in a suspension for ninety (90) days. The lawyer misrepresented to the probate court that he had "filed a tax return with the IRS that was still being considered, when he knew he had not sent the IRS a signed filed tax return." *Id.* The lawyer sent a deliberately misleading cover letter to the IRS and failed to honestly inform his client about the status of the tax return. Also, that lawyer made repeated misrepresentations to the Bar by claiming he filed the tax return in March 2005, when he had not done so. The Court, however, did not impose a rehabilitative suspension.

- *The Florida Bar v. Committe*, 916 So. 2d 741 (Fla. 2005) involved a lawyer, who pursued frivolous claims and failed to comply with discovery, in order to harass the opposition. After numerous incidents of knowingly filing frivolous claims, the Court ruled that a 90-day suspension followed by one-year probation was appropriate.

#### VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be disciplined by:



A. Suspension from the practice of law for a period of ninety (90) days followed by a one (1) year term of probation. As special conditions of probation, Respondent should continue his therapeutic treatment with the counselor recommended by FLA, Scott Weinstein. Additional terms of probation include successful completion of The Florida Bar's Ethics School and Professionalism School within the period of probation. Also, Respondent must complete at least ten (10) hours in additional ethics CLE, over the required minimum, including The Florida Bar's 2019 and 2020 Masters in Ethics courses.

B. Payment of The Florida Bar's costs in these proceedings.

#### 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: 60

Date admitted to the Bar: August 13, 1986

Prior Discipline:

- Respondent received an admonishment for minor misconduct by the Eleventh Judicial Circuit Grievance Committee "B" by service of a Grievance Committee Report of Minor Misconduct dated March 29, 1995, in The Florida Bar File No. 1994-71,026(11B) for violation of Rule 4-8.4(d) (A lawyer shall not engage

in conduct in connection with the practice of law that is prejudicial to the administration of justice) of the Rules Regulating The Florida Bar.

- Respondent tendered a consent judgment and received a public reprimand by Order of the Florida Supreme Court dated April 10, 1997 in Supreme Court Case No. SC90-204; The Florida Bar File No. 1996-71,740(11B) for violating Rules 4-3.3(a) (A lawyer shall not knowingly make a false statement of material fact or law to a tribunal), 4-3.4(c) (A lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists), 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation), and 4-8.4(d) (A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice) of the Rules Regulating The Florida Bar.

- Respondent received an admonishment for minor misconduct by the Eleventh Judicial Circuit Grievance Committee “B” by service of a Grievance Committee Report of Minor Misconduct dated December 19, 1996, in The Florida Bar File No. 1996-71,789(11B) for violation of advertising rule requirements of the Rules Regulating The Florida Bar.

- Respondent tendered a consent judgment and received a public reprimand by Order of the Florida Supreme Court of Florida dated June 20, 2002 in

Supreme Court Case No. SC02-787; The Florida Bar File No. 2001-71,404(11C) for violating Rules 4-3.1 (Meritorious Claims and Contentions), 4-3.3(a)(1) (A lawyer shall not knowingly make a false statement of material fact or law to a tribunal), 4-4.1(a) (A lawyer shall not knowingly make a false statement of material fact or law to a third person), 4-4.4 (Respect for Rights of Third Persons), 4-5.6 (Restrictions on Right to Practice), 4-8.4(a) (A lawyer shall not violate or attempt to violate the Rules of Professional Conduct), and 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation) of the Rules Regulating The Florida Bar.

- Respondent received an admonishment for minor misconduct by the Second Judicial Circuit Grievance Committee “S” by service of a Grievance Committee Report of Minor Misconduct dated May 23, 2007, in The Florida Bar File No. 2007-90,330(02S) for violation of advertising rule requirements of the Rules Regulating The Florida Bar.

- Respondent tendered a consent judgment and was suspended for a period 90 days by Order of the Florida Supreme Court dated May 29, 2012 in Supreme Court Case No. SC11-2143, The Florida Bar File No. 2011-70,673(17A) for violating Rules 4-1.8(e) (Financial Assistance to Client), 4-3.3(a)(1) (A lawyer shall not knowingly make a false statement of material fact or law to a tribunal), 4-4.1(a) (A lawyer shall not knowingly make a false statement of material fact or law

to a third person), 4-8.4(a) (A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another), 4-8.4(b) (A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects), and 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules Regulating The Florida Bar.

Aggravating Factors:

- 3.2(b)(1) Prior Disciplinary Offenses. I recognize that admonishments imposed more than seven years prior are not considered aggravating factors. Accordingly, only the three following prior disciplinary offenses are applicable to this aggravating factor:

- An April 10, 1997 public reprimand in Supreme Court Case No. SC90-204; The Florida Bar File No. 1996-71,740(11B) for four rule violations, including two rule violations involving dishonest or deceitful conduct.

- A June 20, 2002 public reprimand in Supreme Court Case No. SC02-787; The Florida Bar File No. 2001-71,404(11C) for seven rule violations, including three rule violations involving dishonest or deceitful conduct.

- A May 29, 2012 suspension for a period of 90 days in Supreme Court Case No. SC11-2143, The Florida Bar File No. 2011-70,673(17A) for six rule violations including four violations involving dishonest or deceitful conduct.

- 3.2(b)(3) A Pattern of Misconduct. While all of Respondent's prior disciplinary offenses are not considered aggravating factors for purposes of factor 3.2(b)(1) (Prior Disciplinary Offenses), each of his prior disciplinary offenses may be considered for purposes of determining whether there is a pattern of misconduct. "The Court views cumulative misconduct more seriously than an isolated instance of misconduct, and cumulative misconduct of a similar nature warrants an even more severe discipline than might dissimilar conduct." *The Florida Bar v. Bosecker*, 259 So.3d 689, 699 (Fla. 2018). Several of Respondent's prior offenses involve dishonest or deceitful conduct:

- In 1995, Respondent received an admonishment for filing a false motion for continuance in which he misrepresented the basis for the continuance as well as the prosecutor's agreement to same. Respondent aggravated his offense when he threatened a witness against him at the grievance committee. (TFB Ex. 2)

- In 1997, Respondent received a public reprimand for failure to comply with numerous court orders, for which conduct he was held in contempt. That case involved two rule violations for dishonest or deceitful conduct, including Rules 4-3.3(a) (A lawyer shall not knowingly make a false statement of material fact

or law to a tribunal), and 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation). (TFB Ex 3)

- In 2002, Respondent received a public reprimand for making numerous unsubstantiated complaints against his former law partners, and made an additional misrepresentation to the judge stating that the former partners were under criminal investigation, despite having been informed by the police that there was no criminal investigation. Thereafter, when these matters were investigated by the Bar, Respondent misrepresented to the grievance committee that he filed a suit against the former partners when it could not be determined a suit was ever filed, and the former partners were never served with any such lawsuit. This case involved three rule violations for dishonest or deceitful conduct. (TFB Ex. 5)

- In 2012, Respondent received a ninety-day suspension with probation for a period of one year, for conduct involving Respondent's signing his client's affidavit and improperly notarizing same. This case involved three rule violations for dishonest or deceitful conduct. (TFB Ex. 7)

- 3.2(b)(9) Substantial Experience in the Practice of Law. Respondent was admitted to the Bar on August 13, 1986.

Mitigating Factors:

3.3(b)(7) Character or Reputation;

- Character or reputation, Standard 3.3(b)(7): In making this

recommended discipline, I also considered the testimony or letters of the following witnesses for Respondent: (1) Circuit Judge Alberto Milian, (2) Dr. Bruce Frumkin, (3) Scott M. Weinstein, Ph.D., (4) Dr. Richard and Nancy Browne (5) Pamela Barrett, (6) Arthur Brown (7) Gene Rosow (8) Gloria Heck (9) William Heck (10) Rosa Villadamigo (11) Rufus Dean (12) Louis Beale (13) Jo Ann Mayer (14) Carmen Gaskell, (15) Patricia Rossato, (16) Crystal Beale, (17) Michael Graham, (18) Michelle Clarke, and (18) Stella Schwartz. Letters written by the majority of witnesses are attached to the record.

The majority of the witnesses recognized Respondent as a competent lawyer, socially sensitive to people's needs, dedicated family man and hardworking attorney. Particularly, Respondent's wife, Stella Schwartz, indicated that Respondent lives for his practice, works long hours, and has been affected by the Bar case. Lastly, Pamela Barrett, the mother of Virgil Woodson, (the defendant in the line-up) testified that her son is attending college at Strayer University, and she is grateful to Respondent for allowing her son to be have a life outside of prison.

- Full and free disclosure to the bar or cooperative attitude toward the proceedings, Standard 3.3(b)(5): Even as Respondent challenged the disciplinary proceedings, he cooperated with The Florida Bar.
- The length of time this disciplinary case has been pending has extracted a considerable toll on Respondent. He indicated that he has had difficulties and has

spent sleepless nights, as a result the case.

- Respondent testified that he is trying to limit the number of cases and kind of cases as well attempting solve problems before they arise.

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

The Florida Supreme Court previously held that the Florida Bar, having been successful in this matter, shall be awarded their necessary taxable costs of this proceeding and shall submit their statement of costs, as well as a motion to assess costs against Respondent.

Dated this 15<sup>th</sup> day of OCTOBER, 2020.



Honorable Lizzet Martinez, Referee  
County Court Judge  
Richard E. Gerstein Justice Building  
1351 NW 12<sup>th</sup> Street, Room 505  
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