IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

PHILLIP TIMOTHY HOWARD,

Respondent.
_____/

Supreme Court Case Nos. SC 19-488 and 19-1570

The Florida Bar File Nos. 2016-00,682(2A) and 2019-00,088(2A)

MOTION FOR RELIEF FROM REPORT OF REFEREE

COMES NOW Respondent, pursuant to Florida Rule of Civil Procedure 1.540(b), and seeks relief from the Referee's Report, and as grounds states:

1. Florida Rule of Civil Procedure 1.540(b), Relief from Judgment, Decrees, or Orders, provides that:

> **(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.** On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons:
> **(1)** (1) mistake, inadvertence, surprise, or excusable neglect;
> **(2)** newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing;
> **(3)** fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
> **(4)** that the judgment, decree, or order is void; or
> **(5)** that the judgment, decree, or order has been satisfied, released, or discharged, or a prior judgment, decree, or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment, decree, or order should have prospective application.
> The motion shall be filed within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, decree, order, or proceeding was entered or taken.

Id.

2. In the instant action, this Motion for Relief from Report of Referee is being filed within a reasonable time and not more than 1 year after the clearly and demonstrably wrong, fraudulent, misrepresentation, and misconduct that led to the June 14, 2021 Report of Referee. It is just that the Report of Referee be stricken based on newly discovered evidence, fraud, misrepresentation, or other misconduct as detailed below.

3. The fraud, misrepresentation and misconduct consist of: (a) the Florida Bar attorney, Shanee Hinson knowing lying to the Referee about criminal conduct and Bar Rule violations by the extortionate conspirator that led to the Bar Complaint; (b) the Florida Bar Accountant, Roy F. Jeter's knowing violation of accountancy statutes and rules in rending a clearly misrepresented accounting report; (c) the admitted perjured and fraudulent Bar Complaint that was never read by Peggy Harris; (d) the admitted extortionate perjury scheme and numerous Bar Rule violations by J.B. Harris; (e) the violations of Judicial Cannon Rule 3(D), by the Referee, as well as his incapacity to objectively understand and weigh the evidence that is placed before him (relying on claims of reading each word for unneeded copyediting verses understanding the import of all the words); (f) the known complicity of the Florida Bar; and (g) acceptance of the Referee in advancing these extortion and violations of Bar Rules scheme.

4. This evidence was detailed in the Motion to Disqualify the Report of Referee on December 13, 2021, which Motion to Disqualify was granted by the Court.

5. This evidence is found in further detail in Attachments A-E to Respondent's Initial Brief.

6. It was not discovered that Shanee Hinson repeatedly lied to the Referee as to the criminal conduct of JB Harris and his numerous Bar violations that led to the Bar Complaint and Report of Referee until the transcript of her testimony was received on December 3, 2021.

7. It was not discovered that Florida Bar accountant Roy F. Jeter violated numerous Accountancy Rules, and statutes, and rendered opinions that he was not qualified nor permitted to opine professionally until December 8, 2021. After a review of the accounting statutes and rules that he was obligated to comply with and violated, Mr. Jeter's arrogance is even more brazen as he did so without evidentiary basis having never spoken to any party to a contract that he is not qualified nor authorized to interpret. He never met or spoke with the persons that he is opining as to their intent. Notwithstanding Mr. Jeter's accounting statutory and Rule violation-laden report, the Referee accepted the report.

8. It was not discovered that the Honorable Paul S. Bryan was biased, prejudiced and incapable of rendering an intelligent, knowledgeable and discerning Report of Referee until these facts were brought to his attention on December 13, 2021, and he agreed that disqualification was appropriate.

9. The evidentiary basis for this Motion for Relief from Report of Referee is found in more detail in the Motion to Disqualify and Order filed with the Court, with relevant portions provided below:

> 2. In the instant action, the Referee has a bias and prejudice in favor of the Florida Bar and against Respondent. This is being filed within 10 days of learning of the grounds, as Respondent received the relevant transcripts on December 3, 2021. The Referee has shown a pattern and practice to disregard his Judicial Cannon requirements under Cannon 3(D), accepting the Florida Bar's Rule violations as well as attorney JB Harris' Rule violations with impunity, while accepting testimony that is not permitted from experts that are not qualified to provide the testimony being submitted.
>
> 3. The prejudice and bias are documented as follows, [1]in the Referee's violation of Cannon 3(D) in a Bar Complaint also drafted and orchestrated by the same Florida Bar Rule violator, JB Harris, and as supported by the current Florida Bar counsel, Shanee Hinson, both of whom are violating Florida Bar Rules in supporting the extortion, perjury, and derogatory writings as part of the extortion by attorney JB Harris. The Referee is institutionally incentivized to align with the Florida Bar and its allegations, and is not attempting to uncover the truth of these series of extortions, perjury, and Florida Bar Rule violations against Respondent, by both JB Harris, Florida Bar and those that JB Harris are pulling into his extortionate schemes.
>
> 4. Though the legal sufficiency of the following documents and citations are not disputable, the Referee must rule on the motion without passing on its truth or falsity, and without permitting a third party to offer testimony or explanations of the Judge's conduct. *Nathanson v. Nathanson*, 693 So.2d 1061 (Fla. 4th DCA). If the motion to disqualify is facially sufficient, the Referee cannot deny the motion, and in this case a reasonable person would fear that he could not get a fair and impartial trial. *Department of Agriculture and Consumer Services v. Broward Count*y, 810 So.2d 1056, 2058 (Fla. 1st DCA 2002). Close cases should be resolved in favor of disqualification. *Keilbania v. Jasberg*, 744 So.2d 1027, 2018 (Fla. 4th DCA 1997.
>
> 5. Consider the following extensive evidence of prejudice and bias against Respondent:

I. DOCUMENTATION[2] OF REPEATED NOTICED OF SUBSTANTIAL CRIMINAL AND FRUADULENT ACTS, AND SUBSTANTIAL BAR VIOLATIONS BY ATTORNEY JB HARRIS

Honorable Paul S. Bryan knows of and was specifically provided extensive written evidence and received numerous notices in writing documenting under oath, substantial criminal and fraudulent acts upon the Florida Bar, as well as extensive violations of the Rules of Professional Conduct, by Attorney J.B. Harris, on the following dates:

June 11, 2018.	Exhibit A.
June 25, 2018.	Exhibit B.
July 13, 2018.	Exhibit C.
August 7, 2018	Exhibit D.
August 22, 2018.	Exhibit E.
August 28, 2018.	Exhibit F.
March 18, 2021.	Exhibit G.

[1] These are provided in single space, 11 pitch sections for ease of review.

[2] Documentation cited herein is found in Rebuttal Exhibit F, G and H, as well as further documentation in the Affidavit and attachments found in Exhibit A.

Honorable Paul S. Bryan was specifically informed in writing and in sworn testimony of perjury, fraud, extortion, and numerous Florida Bar violations by attorney J.B. Harris, Esq., and his scheme of perjury and fraud with his duped client, Peggy Harris.

As an excerpt, consider the following admission of fraud and perjury found in Exhibit F, addressing Bar Complaint 2019—00,088(2A). This is an acknowledged perjurious, false and fraudulent Bar Complaint that was nevertheless not reported for appropriate prosecution by authorities by the Judge and permitted to be pursued. Under oath the complainant admits she committed perjury in her Bar Complaint that is riddled with false and fraudulent statements. As a limited example, this Bar Complainant states:

Q And so **when this was filed back in 2019**, April of 2019 **you had not read the Bar complaint at that time?**
A Correct.
Q And you would have not been able to tell your lawyers whether -- what was in the Bar complaint was true and correct or contained false statements because you hadn't read it?
A Correct.
Q And we now know that it contains statements that you believe to be false?
MR. DIAZ: Form.
BY MR. MONDE:
Q Correct?
A Correct.
Q Statements that you believe to be fraudulent, correct?
MR. DIAZ: Form.
THE WITNESS: Correct.
Q. Now that you know that, what steps have you taken to correct that?
A. At this point nothing that I recall.

See transcript attached to March 18, 2021, Exhibit F, *infra,* pp. 125-126. The Honorable Paul S. Bryan knows that the Peggy Harris Bar Complaint was never read by Peggy Harris, and was not drafted by Peggy Harris, but by J.B. Harris, despite Peggy Harris filing the Bar Complaint under oath and under penalty of perjury. The Honorable Judge Bryan knows that Peggy Harris under oath acknowledges that the Bar Complaint she signed violated criminal perjury and has extensive false and fraudulent statements. Exhibit E. Peggy Harris admits that her Bar Complaint is fraudulent, prepared and submitted for her signature by her attorney JB Harris, and in response her counsel raised her 5th Amendment rights[3]:

Q. **You're saying that you signed the Bar complaint without reading it?**
A. **Correct**. I know that's—that is my fault. I'm sorry I didn't read it.
. . .
Q. Part five says that, "Signature.): **Under penalties of perjury, I declare that the foregoing**
facts are true, correct and complete." Do you see that?
A. I do.
Q. And then your name is printed, correct?
A. Correct.
Q. **And then you signed your name, correct?**
A. You understood when you signed this that you were under penalty of perjury declaring
the facts in the statement to be true, correct and complete?
A. Correct.
Q. There was no doubt in your mind about what you were signing, correct?
A. Apparently not—apparently so.

[3] MR. ANDERSON: Okay. Well, I'm going to respectfully disagree with you. And to the extent you ask her about her testimony related to her errata sheets, **I'm going to have to instruct her not to answer on the grounds that she could be incriminating herself**.
MR. MONDE: Then have her take the Fifth.

Q. I want to make sure I understand your answer.
A. Well, I—**I did not read it, so I was wrong** in not—putting this down, so—
Q. And I appreciate you're acknowledging that that was wrong. And I want to understand from
you why you agree that was wrong to do. You understood when you signed this that you were
taking an oath to tell the truth –
A. Correct.
Q.—Just like the oath you took this morning?
A. Right.
Q. And you understood the importance of an oath in a legal proceeding, correct?
A. Yes.
Q. I mean, our legal system, you agree, depends on people telling the truth, correct?
A. Correct.
Q. Our legal system depends on people telling the full truth and not being deceptive by leaving
out certain key parts, correct?
A. Correct.
. . .
Q. You understand what perjury means, right?
A. Yes.
Q. You understand the penalties of perjury?
A. Yes.
Q. You understand that in some context perjury can be a criminal offense?
A. Um-hum.
Q. Yes?
A. Yes.
Q. Would you want any part of a judgment that you believed was based on false information?
. . .
A. No.
Q. That would be wrong?
A. Right.
Q. Would you want to be **any part of a judgment that you believed was infected by or tainted by fraud?**
A. I wouldn't like it.
Q. Would you want any part of it?
A. No.
. . .
Q And so **when this was filed back in 2019**, April of 2019 **you had not read the Bar complaint at that time?**
A Correct.
Q And you would have not been able to tell your lawyers whether -- what was in the Bar complaint was true and correct or contained false statements because you hadn't read it?
A Correct.
Q And we now know that it contains statements that you believe to be false?
MR. DIAZ: Form.
BY MR. MONDE:
Q Correct?
A Correct.
Q Statements that you believe to be fraudulent, correct?
MR. DIAZ: Form.
THE WITNESS: Correct.
Q. Now that you know that, what steps have you taken to correct that?
A. At this point nothing that I recall.

Id., at pp. 23-27, 84-85, 125-126.

In the August 22, 2018, letter to Respondent and State Attorney, Jack Campbell, Exhibit D, provided to the Honorable Paul S. Bryan on March 18, 2021, Complainant wrote specifically that:

Dear Counsel Hinson, and State Attorney Campbell:

In response to and in support of the above-referenced inquiry/complaints, please consider the following:

The Margaret "Peggy" Harris' Inquiry/Complaint under PART *FNE,* is submitted with following statement:

"Under penalties of perjury, I declare that the foregoing facts are true, correct and complete." Signed by Margaret "Peggy" Harris, on 7-8-18.

This is an official proceeding under Florida Bar rules and regulations, and based on the language, type set, legal research, attached documents, prior threats to extort, and consistency in his attacks in two other bar complaints, was prepared and ghost written under the guidance, control and direction of Florida attorney, Mr. J.B. Harris.

Under section 837.02(1), Fla. Stat., when perjury takes place in an official proceeding, such as in a Florida Bar complaint, the **criminal** offense of pe1jury is a third-degree felony punishable by up to 5 years in prison and a $5,000 fine. If this complaint is considered an unofficial proceeding, perjury would be considered a misdemeanor of the first degree, punishable by up to one (1) year in jail, (1) year of probation, and $1,000 in fines. Finally, if this complaint is considered before a public servant in the performance of his or her official duty, perjury would be a misdemeanor of the second degree under section 837.06, Fla. Stat.

Unfortunately for Mrs. Peggy Harris in acceding to Mr. J.B. Harris' agenda and writings, she has sworn to this bar complaint under penalties of perjury. The **exhibits attached to this 7-8-18 sworn statement** are dated 7/**30/18, 7/10/18, 7/30/18, 7/30/18, and 7/30/18, respectively.** *See* Exhibit A, Exhibit D, Exhibit E, and Exhibit F. **They are all printed from Mr. J.B. Harris' gmail account, jbharrisesg@gmail.com, on July 31, 2018, July 30, 2018, and August 3, 2018. These emails are not from Mrs. Peggy Harris.** While these exhibits do not constitute a bar violation, they are material to Mrs. Peggy Harris' (Mr. J.B. Harris') claim of such a violation.

This is absolute perjury as one cannot swear under penalty of perjury to events that have not happened, and one can't believe that what one swears to is true when they have not happened. Thus, they are false, and all statements and attachments were material to the claim. It **is also too late to recant this perjury as the complaint and response have taken place.** This is the essence of pe1jury and a criminal violation under section 867.02(1), Fla. Stat. This may also violate section 837.021(1), Fla., Stat., since there are two or more material statements in official proceeding under oath that contradict each other and may constitute a second-degree felony as well.

Moreover, it is a bar violation to present false evidence. Under rule 4-1.2(d), **"A lawyer shall not counsel a client to engage, or assist a client, in conduct the lawyer knows or reasonably should know is criminal or fraudulent."** *See* Florida Bar Ethics Opinion 75-19. It is also a bar violation to offer evidence that the lawyer knows to be false and should disclose that the evidence is false to the tribunal. Rule 4-3.3(b). It is fair to state that Mr. J.B. Harris authored and prepared the entire bar complaint and is using Mrs. Peggy Harris as a front and tool for his own extortionate and denigrating agendas. In that instance, he has violated Rule 4-3.3(a)(l), (2), and (4), which require candor toward the tribunal, and has made a false statement, and has failed to correct or disclose a false statement of material fact or offered evidence that the lawyer knows to be false. In addition, Mr. J.B. Harris must report and disclose that this is his bar complaint.

Mr. J.B. Harris is consistently threatening and extorting. Just yesterday, pertaining to health insurance that this firm pays for Mr. J.B. Harris of approximately $2,500 a month, that was

understood to be automatically deducted from the account, and was rectified prior to the firm being aware his threat and extortion, Mr. J.B. Harris wrote:

"Tim, I **suggest you reactivate my insurance today or I will be at your office first thing tomorrow to spend a little quality time with you.** You've placed the lives of my children at risk and that won't stand."

August 21, 2018 email from Mr. J.B. Harris, attached. Exhibit F, attached.[4]

Honorable Paul S. Bryan knew of these Bar violations yet in violation of his legal and Code of Judicial Conduct mandatory obligations, *see* Section III, *supra*., did nothing to report them for investigation.[5] Morally, and as a responsible citizen and member of the Bar, The

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[4] In Exhibit F, it was clarified as follows:

> The facts demonstrate that this bar complaint was written by Mr. J.B. Harris as part of his continued efforts at extortion. As pointed out in the many prior filings, these documented and repeated, upon repeated patterns violate the following rules of professional conduct as promulgated by the Florida Supreme Court:
>
> A lawyer must not threaten opposing parties with sanctions, **disciplinary complaints,** criminal charges, or additional litigation to gain a tactical advantage. *See* Florida Supreme Court, Professionalism Expectations: Expectation 3.18; and Rules Regulatingthe Florida Bar: Rule 4-3.4(g).
>
> A lawyer must not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter. *See* Florida Supreme Court, RulesRegulating the Florida Bar: Rule 4-3.4(g).
>
> A lawyer must not present, participate in presenting, or threaten to present **disciplinarycharges** under these rules solely to obtain an advantage in a civil matter. *See* Florida Supreme Court, Rules Regulating the Florida Bar: Rule 4-3.4(h). 4
>
> To opposing parties and their counsel, a lawyer should act with **fairness, integrity, andcivility,** not only in court, but also **in all written and oral communications.** (Oath of Admission)
>
> Candor and civility must be used in all oral and written communications.(Professionalism Expectations: Expectation 2.2)
>
> **A lawyer must avoid disparaging personal remarks** or acrimony toward opposing parties, counsel, third parties or the court. (Professionalism Expectations: Expectation 2.3). **A lawyer should be civil and courteous in all situations, both professional and personal, and avoid conduct that is degrading to the legal profession.** R. Regulating Fla. Bar 3-4.3. 5
>
> **A lawyer's communications in connection with the practice of law,** including communications on social media, **must not disparage another's character or competence** or be used to inappropriately influence or contact others. (Professionalism Expectations: Expectation 2.5); *see* R. Regulating Fla. Bar 4-8.4(d).
>
> **A lawyer must not criticize or denigrate opposing parties,** witnesses, or the court **to clients, media, or members of the public.** (Professionalism Expectations: Expectation 4.20); see R. Regulating Fla. Bar 4-8.2(a) and 4-8.4(d)).

Id.

[5] In the June 11, 2018, filing with Shanee Hinson and Jack Campbell, State Attorney, Exhibit A, provided to Honorable Judge Paul on March 18, 2021, the extensive Florida Bar violations and extortion were detailed and documented as follows:

> Even though $11,583.98 was paid to Mr. Harris on December 28, 2017, on January 29, 2018, Mr. Harris threatened a Bar complaint and criminal and civil action without lawful justification for his own pecuniary advantage, in order to receive $2,000 that day, which indeed was wired that day, stating: "If **you don't throw me another miniscule $2,000 lifeline TODAY, I'm filing a bar complaint against you and your lap dog Ankur. I've called to make an appointment to meet with the Bar tomorrow in person.** I'm

driving to Tallahassee at first light. I don't care how sick I am." Email from Mr. Harris attached as Exhibit A (emphasis added).

Mr. Harris continues his threats on February 1, 2018, now demanding $80,228, in order to avoid a Bar complaint against Mr. Howard, stating: **"I've prepared a bar complaint against you which** I **will file tomorrow if I'm not paid in full by then."** This threat was backed up by Annie Sebastian, attorney with the Diaz law firm, without lawful justification and for their own pecuniary advantage, stating, "I will file suit to strip you of your percentage in the Bryant case and **forward the suit to the Florida Bar** along with a complaint for your failure to meet your obligations to this firm and the client." February 1, 2018 email attached as Exhibit B (emphasis added).

On February 7, 2018, Mr. Harris, again threatens, with incorrect information, and without lawful justification for his own pecuniary advantage, blindly supporting another extortion scheme by a representative of BWCI Trust for a fraudulent and corrupt lender recommended by former advisors lacking skills and having ill intent, stating,

> Tim, I am now aware of the predicament that you are in and that **your house of cards is rapidly collapsing.** If you haven't signed the [corrupt extortionate] agreement by the close of business today necessary to release the insurance premium payment [BWCI $345,000 to a fraudulent lender], plus the lifeline agreement with Lance [BWCI representative in false agreement and participant in fraudulent scheme], I **will proceed with the Diaz firm in aligning ourselves with 1 other creditor, to force you into bankruptcy.**

February 7, 2018 email attached as Exhibit C (emphasis added). Note use of the **term,"house of cards"** as used in Kim Poling's June 4, 2018 Rebuttal, page 4.

All delays under the agreement were caught up in full, including a $20,000 payment on February 9, 2018, and another $22,000 payment on February 12, 2018 (which included a $15,000 bonus). Just two weeks later, Mr. Harris, not knowing the collateral structure of the lender, on February 26, 2018, without lawful justification and for his own pecuniary advantage, threatens criminal action to gain advantage in a civil contract issue that Mr. Howard did not know existed, stating:

> Accordingly, you have until this Friday at 12:00 pm March 2, 2018, to release every case belonging to me on the UCC-1's referenced herein, or on those of any other creditor of H&A, or I **am proceeding straight to the FBI** with this information. And I **will not sleep until you and Mr. Mehta are brought to justice and placed behind bars.**
>
> Finally, since you terminated our agreement without cause, I reserve all rights I have against you and Mr. Mehta, including without limitation claims for fraud in the inducement, fraud, conspiracy to commit fraud, intentional infliction of emotional distress and punitive damages.

February 26, 2018 email from Mr. Harris is attached as Exhibit D (emphasis added).

During the month of March, Mr. Howard diligently worked with Mr. Harris and a legitimate lender to obtain funding for the prosecution of Engle cases and to secure payments to Mr. Harris and his interests. March 26, 2018 email to Mr. Harris documenting the work done to secure Mr. Harris' interests. Email and texts attached as Cumulative Exhibit E.

Due to Mr. Harris' mode of communicating with the lender, the lender informed Mr. Harris on April 3, 2018, as follows: "From now on, please do not call, text or email any Virage staff. It is detrimental to our process and not helpful to Tim." April 3, 2018 email attached as Cumulative Exhibit E. In response, Mr. Harris writes, on April 5, 2018, stating:

Marty, (1) before I **sue Virage, you, Ed and Tim for fraud and conspiracy to commit fraud,** for:

(1) intentionally and maliciously liening with your fraudulent UCC-1 my tobacco cases in which Tim had no interest in, nor had been retained by my client to represent; . . . .

(2) before I also file **a complaint against you and your co-conspirators with the SEC for the same,** alerting the SEC how you have breached your fiduciary duties to Virage and its shareholders; and

(3) before I **file a Bar complaint against you for all of the above;**

(4) you may want to man up and call me to discuss a settlement of my claims tomorrow, first thing. Otherwise, my weekend will be very busy.

April 5, 2018 email from Mr. Harris, attached as Exhibit F (emphasis added). Despite the attacks, threats, and no factual or legal basis for the attacks and threats, the parties entered into a Confidential Settlement and Release Agreement, providing Mr. Harris with $21,000 a month salary, office expenses, and health insurance, plus $50,000 on April 6, 2018. This amounts to an additional over $100,000 for Mr. Harris since early April, for a combined $450,000 over the past 16 months.

In fact, on March 30, 2018, just days earlier, Mr. Howard personally sent Mr. Harris $350 out of the $361 that I had in available to help him get through the weekend. March 30, 2018 text attached hereto as Exhibit G. Notwithstanding the compassion, diligence, repeated and continued efforts for goodness and care to advance Mr. Harris' security and interests, he has not changed his approach.

Consistent with Mr. Harris' threats of criminal prosecution, forced bankruptcy, and Bar complaints, stated on January 29, 2018, February 1, 2018, February 26, 2018, April 5, 2018, Mr. Harris is now engaged in daily threats and attacks without legal justification for pecuniary gain. The evidence indicates that Mr. Harris is conspiring with, **ghost writing and directly and indirectly assisting** in the Kim Poling Bar Complaint and Rebuttal, including but not limited to providing text information from his email [Rebuttal of Kimberly Poling to Dr. Tim Howard's Response, Exhibit E], and a copy of a transcript that only Defendants have received and upon information and belief was provided to Mr. Harris, who gave it to Ms. Poling [Rebuttal of Kimberly Poling to Dr. Tim Howard's Response, Exhibit H], as well as language, while adopting her Reply. *See* JB Harris and Kim Poling Rebuttal filed on June 4, 2018. Note, the June 4, 2018 Reply provided no new substantive information, only further incendiary and derogatory language consistent with Mr. Harris' language in the other documents.2

Mr. Harris most recent threat of criminal and civil actions, and Bar complaint, all without legal justification and for his own pecuniary advantage, as part of his extortion took place on June 6, 2018, concerning a former client of Mr. Harris, that took the initiative to contact this firm due to the abuse that they state that Mr. Harris and his team had inflicted upon them, and dropped them as counsel. *See* June 6, 2018 email from Mr. Harris to clients, counsel and Mr. Howard. Mr. Harris states:

> Tim, if you think you are having trouble with the Bar's investigation of your practices, BWCI Penson Trustees Limited, Ted Doukas, and everyone else who is still after you, **you are about to walk into a shit storm** if you steal the Goulds from me as my clients.
>
> I will lien the file for cost and fees, sue you for tortious interference and unpaid contributions to costs, **fraud and everything else I can think of. I will also amend my complaint with the Bar** and file a complaint against Neil [paralegal in office] as well.

June 6, 2018 email from Mr. Harris to Mr. Howard, client, co-counsel and lender, attached as Exhibit H (emphasis added).

On June 7, 2018, not knowing the facts, Mr. Harris continues to threaten Bar complaints, stating to a paralegal with the firm, **"I'm am left with no choice but to file a Bar complaint against you."** June 7, 2018 text to paralegal attached as Exhibit I (emphasis added). On that same date, Mr. Harris confirms to the client that "We've had our differences but have worked through them. I was VERY hurt to learn about what may be going on behind my back. We really need to speak. I **won't yell or scream.** Promise." June 7, 2018 text to his fo1mer client attached as Exhibit I (emphasis added). The client does not want to be yelled at or abused any further and this is why they switched counsel.

Also on June 7, 2018, Mr. Harris sends another text to the client disparaging counsel without legal justification and for his own pecuniary advantage, continuing his use of the extortion model of complaints to gain advantage in a civil dispute. He first implies that the Ph.D. from Northeastern University, awarded in 2005, is not legitimate. He next uses the Bar process that he coordinated with Ms. Poling for filing to continue his extortion model of practicing law to intimidate the client. He asserts that his Bar complaint is

legitimate and factually based. He then falsely asserts that there is an investigation by the "Feds" of the law firm. A threat he first asserted in February of 2018. Finally, he asserts that Ankur Mehta doesn't have a **Doctorate,** which is false since he has a Juris Doctorate, and uses the UPL that he coordinated with Ms. Poling to file, as another extortion tool to address a client desire to not be abused. June 7, 2018 text to his former client attached as Exhibit J.

Continuing this pattern, on June 8, 2018, Mr. Harris, without legal justification for his own pecuniary advantage, unleashes his threats, extortion and intimidation efforts with a series of derogatory comments, such as **coward, scumbag, blasphemous, sociopathic charade, days a lawyer are numbered,** and his continued use of the Bar as an extortion device, stating:

> Tim, you breached the NDA by going behind my back to steal my clients and slandering them to me. You're a **first rate coward and a scumbag.** All your talk about **Jesus is blasphemous garbage.** Trust me, I will be pursing my remedies forthwith. You want a war. You are going to get one. Hope you paid Leonard his fees up front.
>
> Did you inform the clients that (i) you are the target of an SEC investigation; (ii) a Bar investigation; (iii) have never tried a tobacco case; (iv) wouldn't know how to if your life depended on it; (v) you don't have a pot to piss in; and (vi) can't afford to litigate a tobacco case. I doubt it. Accordingly, your actions are retaliatory for my having filed a Bar complaint against you.
>
> Trust me, these clients know about tobacco litigation than you ever will. I can also assure you they will rip you to shreds once they see through your **sociopathic charade.**
>
> By the way, the Bar is starting to debrief your former employees. Seems like you've been on the Bar's radar for quite sometime. **Your days as a lawyer are numbered. I'm sure your family will be so proud once they find out.** Enjoy your weekend.

Detailing the Bar Violations entailed, Dr. Howard provided attorney Shanee Hinson case law and statutes on Bar violations and criminal extortion violations:

> Lawyer disciplined for sending disparaging emails to opposing counsel, calling him a liar, and making improper outbursts directed toward opposing counsel during the litigation. *The Florida Bar v. Norki11,* 132 So.3d 77 (2013)). *See also The Florida Bar v. Abramson,* 3 So.3d 964 (2009); *The Florida Bar v. Buckle,* 771 So.2d 113 (Fla. 2000); *The Florida Bar v. Sayler,* 721 So. 2d 1152 (Fla. 1998); *The Florida Bar v. Ratiner,* 46 So.3d 35 (Fla. 20I0). Lawyer disciplined for sending a letter to a cou1t-appointed provisional director of corporation in which he improperly threatened to file suit against provisional director and accused the provisional director of being involved in a conspiracy. *The Florida Bar v. Norkin,* 132 So. 3d 77 (2013); *See also The Florida Bar v. Abramson,* 3 So. 3d 964 (Fla. 2009). "The First Amendment does not protect those who make harassing or threatening remarks about the judiciary or opposing counsel. Under Rule of Professional Conduct 4-8.4(d), lawyers are required to refrain from knowingly disparaging or humiliating other lawyers." *The Florida Bar v. Sayler,* 721 So.2d 1152, 1155 (Fla. 1998).
>
> Whoever, either verbally or by a written or printed communication, maliciously threatens to accuse another of any crime or offense, or by such communication maliciously threatens an injury to the person, property or reputation of another, or maliciously threatens to expose another to disgrace, or to expose any secret affecting another, or to impute any deformity or lack of chastity to another, with intent thereby to extort money or any pecuniary advantage whatsoever, or with intent to compel the person so threatened, or any other person, to do any act or refrain from doing any act against his or her will, shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 7775.084. Under Florida Statute 836.05, the crime of Extortion is committed when a person maliciously threatens to: Accuse another of any crime or offense; Injure the person, property or reputation of another; Expose another to disgrace; Expose any secret affecting another; or Impute any deformity or lack of chastity to another, with the intent to: Extort money or any pecuniary advantage; or Compel any person to do any act or refrain from doing any act against their will. **Actual Malice versus Legal Malice.** Although it is a subtle distinction, under the Extortion statute, the prosecutor is required to prove the threat was committed with Actual Malice, which means "means ill will, hatred, spite, evil intent." This is in contrast to what is known as Legal Malice, which only requires that an act be committed intentionally and without any lawful justification. **Penalties for Extortion.** The crime of Extortion is a Second-Degree Felony in Florida and is punishable by up to 15 years in prison, 15 years of probation, and a $10,000 fine. *Calamia v. State,* 125 So. 3d 1007 (Fla. 5th DCA 2013) (Actual malice is the standard. "A threat is malicious if it is made intentionally and without any

Honorable Paul S. Bryan should have immediately acknowledged and presented the criminal and fraudulent conduct to the criminal prosecutor and Florida Bar, requesting a Florida Bar investigation and criminal referral. In fact, he is mandated to report to the Florida Bar, yet he did nothing. *See* Section III, *supra*.

When confronted that she knew of the criminal perjury, extortion[6] and fraud, Shanee Hinson, before the cock crowed, three times intentionally lied to the Honorable Paul S. Bryan stating that she is "aware of no such violations," and falsely stated as follows:

Dr. Howard: I'm . . . talking about **a history of documented [Bar] violations which I have [provided], which you received showing extortion, threats, derogatory comments and extensive perjury that you're aware of**, that you decided [not] to go forward with -- in this case, regardless. That's what I'm referring to, his history of perjury.

Shanee Hinson: Mr. Howard, okay. I just want to stop you because you said that I am aware of. **I am aware of no such thing**, so I just wanted to make that clear.

Dr. Howard: Yes, you are. They're **attached to your exhibits** so you are aware of those things.

Shanee Hinson: **I'm aware of no such violations**, is what I'm clarifying.

Dr. Howard: **And I'm clarifying that you are, in writing**. **You've received written and sworn statements that are perjurious, complete perjury, under oath by both Mr. [JB] Harris, by Peggy Harris, and they are detailed with documents attached to Shanee Hinson and the Florida Bar. The Florida Bar has been fully aware of his perjury, fully aware of his Bar violations**, yet you're going forward with this, and that's why you're not calling him as a witness because you know how dirty he is.

Shanee Hinson: Mr. Howard, let me clarify again, **I am aware of no Bar violations**.

Transcript, Vol. 2, pp. 247-249, and pp. 289-294, attached as Exhibit H. Honorable Judge Paul knew that these statements to him were not true yet did not report these intentional misrepresentations to him to the Florida Bar.

II. FLORIDA BAR RULE VIOLATIONS BY ATTORNEY SHANEE HINSON NOT REPORTED BY HONORABLE JUDGE BRYAN

Based on the undisputed and repeatedly documented in writing, facts of:

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lawful justification."); *McKee v. State,* 7 I 5 So.2d IO1 (Fla. 5th DCA 1998) (Conviction upheld for threats that defendant will destroy you, destroy your business, accusing of drug use, and threatening to make accusations to a federal agency.). "Maliciously" means wrongfully, intentionally, and without legal justification or excuse. A threat is "malicious" for purposes of exto1tion statute if it is made intentionally and without any lawful justification. It is not necessary that the person accused of extortion have the ability to carry the threat out. Threats to cause mental or psychological injuries are generally prohibited under exto1tion statute. Therefore, if you threatened to expose someone's affair to their spouse unless they paid you $1,000,000, the threat could be considered extortion for causing a psychological injury or because it was done for a monetary gain. This is extortion even if you did not know how to contact their spouse. Generally, a claim of extortion cannot be based on a threat to do an act which a person has a lawful right to do, but **you may not threaten to undertake an otherwise legal act for your own pecuniary advantage.** An attorney that repeatedly engages in conduct considered extortion can be a violation of the Florida RICO Act, pursuant to section 772.04, Florida Statutes.

[6] Dr. Howard informed Shanee Hinson of the extortion by Dana Hall and Sandra Fulup on August 3, 2018, and their conspired demand of $355,031, when nothing was owed and a full accounting and review had taken place with Sandra Fulup signed and accepted on December 23, 2013, with the opportunity for independent counsel to review and advise. The Bar has done nothing pertaining to this extortion as well. Rather, swallowed a toxic narrative by an extorter that hasn't worked in nearly 10 years, and gone after Dr. Howard. Exhibit I.

(1) "known" "substantial" dishonesty, untrustworthiness and fitness as a lawyer and not informing the appropriate professional authority after numerous and repeated information of criminal, fraudulent and Rule of Professional Conduct violations;
(2) knowingly and intentionally making a false statement of fact three times or more to the Court; and
(3) failing to disclose a material fact and as a result assisting a criminal or fraudulent act upon the Florida Bar and the Court,

Respondent, Shanee Hinson, Esq., violated the following Rules Regulating the Florida Bar:

A. RULE 4-3.3 CANDOR TOWARD THE TRIBUNAL

(a) False Evidence; Duty to Disclose. A lawyer **shall not knowingly**:

(1) **make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer**;
(2) **fail to disclose a material fact** to a tribunal **when disclosure is necessary to avoid assisting a criminal or fraudulent act** by the client;
(3) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
(4) offer evidence that the lawyer knows to be false. **A lawyer may not offer testimony that the lawyer knows to be false** in the form of a narrative unless so ordered by the tribunal. **If a lawyer**, the lawyer's client, or a witness called by the lawyer has offered material evidence and the **lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures including, if necessary, disclosure to the tribunal**. A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

B. RULE 4-8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) Reporting Misconduct of Other Lawyers. A lawyer who **knows**[7] **that another lawyer has committed a violation of the Rules of Professional Conduct** that **raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer** in other respects **must**[8] inform the appropriate professional authority.

(b) Reporting Misconduct of Judges. A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office must inform the appropriate authority.

The Comment section of Rule 4-8.1(a), states that the "term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware."[9]

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[7] In Chapter 4, Rules Regulating Professional Conduct, definitions, it states that: "Knowingly," "known," or "**knows" denotes actual knowledge of the fact in question**. A person's **knowledge may be inferred from circumstances.**

[8] The Scope of the Rules of Professional Conduct as detailed in Chapter 4, specifically states that: "They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the rules are **imperatives,** cast in the terms of "**must**," "must not," or "may not."

[9] Chapter 4, Rules Regulating Professional Conduct, Scope of Rule states that:

> Failure to comply with an obligation or prohibition imposed by a rule is a basis for invoking the disciplinary process. The rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the rules presuppose that whether discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as **the willfulness** and **seriousness of the violation**, extenuating factors, and whether there have been previous violations.

In Chapter 4, Rules Regulating Professional Conduct, definitions, it states that: "'Fraud' or 'fraudulent' denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information."

C. RULE 4-8.4 MISCONDUCT

A lawyer shall not:

(a) 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;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, **deceit, or misrepresentation**, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule;

(d) engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, **including to knowingly**, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic;

III. CODE OF JUDICIAL CONDUCT VIOLATIONS BY HONORAL JUDGE PAUL

Canon 1
A Judge Shall Uphold the Integrity And Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

COMMENTARY
Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

Cannon 3
A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

A. Judicial Duties in General.
The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the specific standards set forth in the following sections apply.
. . .
D. Disciplinary Responsibilities.
(1) A judge who receives information or has actual knowledge that substantial likelihood exists that another judge has committed a violation of this Code shall take appropriate action.

(2) **A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar shall take appropriate action.**

Commentary

Canon 3D. Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, or reporting the violation to the appropriate authority or other agency. If the conduct is minor, the Canon allows a judge to address the problem solely by direct communication with the offender. **A judge having knowledge**, however, that another judge has committed a violation of this Code that raises a substantial question as to that other judge's fitness for office **or has knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, is required under this Canon to inform the appropriate authority.** While worded differently, this Code provision has the identical purpose as the related Model Code provisions.

Judicial Ethics Advisory Committee
Opinion Number: 2019-14
Date of Issue: April 10, 2019

ISSUES
Whether the inquiring judge has a duty to report an attorney to The Florida Bar in circumstances where representations made to the court by the attorney during a judicial proceeding were known by the inquiring judge to be false.

ANSWER:
In the circumstances presented, Canon 3D(2) requires the inquiring judge to report the attorney for misconduct to The Florida Bar.

FACTS
A judge has inquired whether there is an ethical obligation under the Code of Judicial Conduct to report an attorney for misconduct to The Florida Bar based on the following facts. The inquiring judge was presiding over probation violation proceedings in which defense counsel, mid-way through a series of hearings, insisted that the client/defendant did not speak or understand English; could not proceed without the assistance of an interpreter; and could not have willfully violated the applicable probationary conditions because the defendant never understood those obligations as a result of the alleged language issue. The inquiring judge knows the lawyer's representations are false. Specifically, the inquiring judge knows, based on record evidence, that the lawyer's client/defendant previously acknowledged in open court that the client speaks English well enough to be comfortable conducting court matters in English, the defendant always spoke English with probation officers without apparent difficulty, the client never requested a translator before, and the lawyer knew when making the contrary allegations that the client/defendant speaks and understands English.

The inquiring judge is concerned that the lawyer's breach of his duty of candor to the tribunal may have been so egregious as to call into question his honesty and trustworthiness as a lawyer.

DISCUSSION
The response to this inquiry is governed by Canon 3D(2) of the Code of Judicial Conduct which provides as follows:

A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar shall take appropriate action.

As this Committee has previously noted: "All Florida judges are, first and foremost, attorneys and members of The Florida Bar. As such, Florida judges, just like every other Florida attorney, have

an obligation to maintain the integrity of the legal profession and to report to The Florida Bar any professional misconduct of a fellow attorney." Fla. JEAC Op. **98-21**.

This Committee has also previously stated that before making a report to The Florida Bar, the inquiring judge should "first make a determination as to whether a substantial likelihood exists that the lawyer in question violated the Rules of Professional Conduct." Fla. JEAC Op. **97-17**. The judge is required to reach a "reasoned determination" of whether a lawyer has committed a violation of the Rules Regulating The Florida Bar. Id. Should the judge reach that conclusion, the judge would then be obligated to inform the Bar. *Id*.[1]

Essentially, the inquiring judge asks what is the "appropriate action" to be taken in the circumstances presented. Although the Code does not specify what the term "appropriate action" entails in a particular circumstance, the Commentary to Canon 3D guides this Commission's response:

Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, or reporting the violation to the appropriate authority or other agency. **If the conduct is minor, the Canon allows a judge to address the problem solely by direct communication with the offender**. **A judge having knowledge, however,** that another judge has committed a violation of this Code that raises a substantial question as to that other judge's fitness for office or has knowledge **that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, is required under this Canon to inform the appropriate authority.** [10]While worded differently,

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[10] In JEAC Opinion Number 2005-16, with less severe perjury, with no extortion or fraud involved, the Judicial Ethics Advisory Committee found as follows:

FACTS
The inquiring judge is presiding over a negligence action. Attached to the plaintiff's answers to the defendant's propounded interrogatories was a separate page containing the plaintiff's signature, underneath a jurat clause indicating that the plaintiff "after being first duly sworn . . . deposes and states that he has executed the foregoing answers to interrogatories, and that they are true and correct to the best of his knowledge and belief." A notary's certificate followed.

At a hearing held after the service of the plaintiff's answers to interrogatories, the plaintiff's counsel represented that he and the plaintiff generally discussed the interrogatories, during an office conference. The plaintiff's counsel directed a notary in his law office to notarize the plaintiff's signature. However, no answers were prepared or appended to the signature page when the plaintiff signed the signature page. **The plaintiff's counsel further represented at the hearing that the plaintiff's answers to the interrogatories were prepared several months after the plaintiff signed the signature page** and the plaintiff's signature was notarized.

The inquiring judge believes that there is a substantial likelihood that the plaintiff's attorney has violated the Rules Regulating The Florida Bar, including Rules 4-1.2(d) and 4-3.4(b), in that the notary prepared a false certificate in violation of section 117.105, Florida Statutes (2005); and that the client has offered false testimony under oath, in violation of Chapter 837, Florida Statutes.

DISCUSSION
The inquiring judge has an obligation to report the plaintiff's attorney to The Florida Bar if the inquiring judge believes that this is the appropriate action to take under the circumstances presented. Canon 3(D)(2) of the Florida Code of Judicial Conduct directs that a judge who receives information or has actual knowledge that a substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar shall take appropriate action. The Florida Supreme Court has stated:
All Florida judges are, first and foremost, attorneys and members of The Florida Bar. As such, Florida judges, just like every other Florida attorney, have an obligation to maintain the integrity of the legal profession and report to The Florida Bar any professional misconduct of a fellow attorney. 5-H Corp. v. Padovano, 708 So. 2d 244, 246 (Fla. 1997) (citations omitted). **This Canon is mandatory**, not hortatory. *See also* JEAC Ops. **98-21** and **97-17**.

this Code provision has the identical purpose as the related Model Code provisions. (Emphasis added.)

Significantly, **"[t]he Supreme Court does not view violations of the Bar Rule governing misconduct involving dishonesty, fraud, deceit, or misrepresentation as minor**." *The Florida Bar v. Gilbert*, 246 So. 3d 196, 203 (Fla.2018).[2]

The facts indicate that the inquiring judge "has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar," that such violation is not minor in nature, and that the lawyer's conduct raises a significant question as to the lawyer's honesty, integrity, trustworthiness, or fitness for the practice of law. Accordingly, the Committee advises that Canon 3D(2) requires the inquiring judge to report the attorney to The Florida Bar.[3]

REFERENCES
Fla. Code Jud. Conduct, Canon 3D(2).
Fla. Code Jud. Conduct, Canon 3D(2), Commentary.
Fla. JEAC Ops. **01-06**, **98-21** and **97-17**.
The Florida Bar v. Gilbert, 246 So. 3d 196, 203 (Fla. 2018).
Holt v. Sheehan, 122 So. 3d 970, 976 (Fla. 2d DCA 2013), note 2.
Favel v. Haughey, 727 So. 2d 1033, 1036 (Fla. 5th DCA 1999).

While a judge is not required by the Code of Judicial Conduct to report a criminal violation, but as an attorney and member of the public has a moral, statutory and other non-code obligations to report criminal conduct, namely the integrity of the attorneys and legal proceedings before the Florida Bar, and sanctioning extortion, perjury, and fraud upon members of society and the legal community. *See* Judicial Ethics Advisory Opinion 2012-11.

Honorable Judge Paul failed to comply with his mandatory obligation to report Florida Bar attorney Shanee Hinson and Florida Attorney JB Harris to the Florida Bar for known and serious Florida Bar Rule violations.

IV. CONSEQUENCES OF FAILURE TO ENFORCE CRIMINAL LAW AND RULES REGULATING THE FLORIDA BAR

With no accountability by the Honorable Judge Bryan, nor the Florida Bar for known perjury, extortion, defamation, violations of numerous Florida Bar rules, and Shanee Hinson's violation of Florida Bar Rules and intentional misrepresentation to Honorable Judge Bryan, JB Harris, Esq., thinks he has a free license to continue these Florida Bar Rule violations of perjury and extortion tactics in filing Florida Bar complaints, and now advertises to do the same. Exhibit J. This is a plague upon the legal profession. Not holding all parties accountable, including the Court, the Florida Bar, and Shanee Hinson, **permits this poisonous, corrupt and criminal model to denigrate the morality and integrity of the profession, and this evil model of existence to fester and grow.**

V. REFEREE ACCEPTED TESTIMONY OF FLORIDA BAR ACCOUNTANT IN VIOLATION OF ACCOUNTING STATUTORY STANDARDS

I. DOCUMENTATION OF SECTION 455.227, FLORIDA STATUTE VIOLATIONS

Mr. Roy Jeter is practicing beyond the scope permitted by law and performing expert opinions that Mr. Jeter is not competent to perform, filing a report with opinions and accounting

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The parties to the pending action should be notified on the record through counsel that the inquiring judge referred the plaintiff's attorney to The Florida Bar. The Commentary to Canon 3E(1) of the Florida Code of Judicial Conduct states "that a judge should disclose on the record information that the judge believes the parties or their attorneys might consider relevant to the question of disqualification, even if the judge believes there is not a real basis for disqualification." Referring the plaintiff's attorney to The Florida Bar is an issue that the parties might consider relevant to the question of disqualification.

errors that the licensee knows he is not competent to provide, is making misleading and untrue representations, as well as aiding, assisting and advising an unlicensed entity contrary to the rules of the board of accountancy. Consider the following:

Jeter March 27, 2018 Report Exhibit A
John Harvard October 30, 2020 Report Exhibit B

In sworn testimony, Mr. Jeter states, without ever talking to or knowing any witness to the facts, as follows:

Q. Okay. So it's your position that it's fairly obvious that, because Mr. Howard did not provide you with the written options that he discussed with his client, that he didn't give him the options, and that because he didn't do that, he somehow deceived his client? That's the position?
A. I think the fact that Dr. Howard created these records is evidence of a deception.

Jeter Dep. at 116:12-25; 117 (1-4).

In his audit report, Mr. Jeter provides expert testimony that he is not qualified nor competent to provide, making misleading representations concerning a deceased individual and the deceased's sworn written directives, when he never met the person nor was involved in the creation of the sworn documents. He violated these standards while assisting and advising an unlicensed entity contrary to the rules of the Board of Accountancy.

For instance, Mr. Jeter chose to disregard payments Dr. Howard paid or fees earned on behalf of the deceased Mr. Hall. Exhibit G of Mr. Jeter's report represents total payments of $148,145.60 and acknowledges the payments or fees earned, yet he deems them unallowed based solely at his discretion and his interpretation of a contract without discussing the contract terms with any party, or having a court determine the contract terms. There is no rule of accounting that permits this.

There were a few other nonexclusive examples of Mr. Jeter's expert accounting conclusions of Mr. Howard's intent that are not supported by facts, and that he is not qualified to render opinions on, in his advising an unlicensed entity contrary to the rules of the Board of Accountancy. A couple of examples are as follows:

1. Page 3 of Jeter report "The **respondent deceived Jason Hall** into believing the only way interest could be earned on the settlement funds was by giving the settlement funds to the respondent to use at the respondent's discretion."

There is no evidence that supports Mr. Jeter's claimed expert opinion, and he is not skilled nor qualified as an accountant to provide expert intent opinions on parties that he has never met on a person that deceased many years earlier. Especially when the only living fact witness verifies the opposite and there is no documentation to support the opinion.

2. Page 3 of Jeter report "The respondent's actions were for his personal benefit."

There is no evidence that this was done to benefit respondent, and in fact, the sworn testimony is that this was done solely for the deceased Jason Hall, for his benefit. Mr. Jeter has no factual nor expert basis to make this accounting statement. Especially when the only living fact witness verifies the opposite and there is no documentation to support the opinion.

3. Page 3 of Jeter report "The respondent deceived Jason Hall into signing a letter that allowed the respondent to use Jason Hall's settlement funds for respondent's benefit."

There is no evidence that this was done to benefit respondent, and in fact, the sworn testimony is that this was done solely for the deceased Jason Hall, for his benefit. Mr. Jeter has no factual nor expert basis to make this accounting statement. Especially when the only living fact witness verifies the opposite and there is no documentation to support the opinion.

4. Page 6 of Jeter report the heading used **"False Accounting for Loan from Settlement Funds"**

The word false is based on no factual evidence, and Mr. Jeter is not qualified to render an expert opinion on intent of an individual, especially when he was not a fact witness and never met any party to the events, and testifies contrary to the only fact witness.

5. Page 7 of the Jeter report **"The respondent falsely** reported the repayment of the loan principle and incorrectly calculated interest amount in the 2016 accounting."

Again, without any factual basis and not ever meeting any witness, Mr. Jeter issues an opinion of false reporting that he is not qualified to render. Documenting his violation of accounting standards, and improperly aiding an unlicensed agency, contrary to the evidence of $148,150.60 paid on loan principle within months of the loan agreement, as found in Exhibit G of his report, Mr. Jeter does not permit known and documented payments on the loan when there was no interest charge available as the loan was only a month or two old.

Mr. Jeter claims, as a non-fact witness accountant, that "it is fairly obvious" that any records Dr. Howard provided were "evidence of deception." Jeter Dep. At 116:12-25; 117:1-4; that Jason Hall was "on drugs" and "not in his right faculties," therefore enabling Dr. Howard to steer Jason Hall to direct Dr. Howard to deposit settlement funds into a non-trust account. Jeter Dep. at 108:11-13. This factual interpretation is not the prerogative of the accountant, without a factual basis. Those with factual involvement with Jason Hall are the only witnesses that can testify as to Jason Hall's condition in the Summer of 2008, and the only witness to that is Dr. Howard. Mr. Jeter goes on to interpret a contract between two other parties, without any expertise in legal contract interpretations, not discussing the contract terms with any party to the contract, without any court declaring the intent and meaning of the contract terms, and without any action filed by any party to interpret the contract. The bias and suppositions of Mr. Jeter, not part of his expertise, nor capacity as a witness, in assisting and advising an unlicensed agency, is a violation of the Florida Board of Accountancy Rules.

Mr. Jeter admits that he never met or spoke with Dr. Howard or the decedent. "Q You have never met with Mr. Howard, have you? A No. Q And you never spoke to Mr. Howard on the phone have you? A. No." (Trial Transcript, p. 618). Mr. Jeter admits that he never discussed the directive letter of the deceased client with the deceased client. "And never discussed this letter with Mr. Hall, correct? A No." (Trial Transcript, p. 623).

Mr. Jeter denies the written and sworn instructions of the deceased client and interprets them as "nonsense" in violation of Board of Accountancy Rules.

Question: So is it your position that it's fairly obvious that because Mr. Howard did not provide you with a copy -- did not provide you with a copy with the written options that he discussed with his client that he did not give him the options and that because he didn't do that he somehow deceived his client? That's the position?
Answer: I think the fact that Dr. Howard created these records is evidence of a deception. The Exhibit A-1, for example, I mean, I think that itself is evidence of deception.
Q And you read Exhibit A-1 to your report, which is the July 15th letter, which is a signed document not only by Mr. Howard but a document that's signed and notarized by Mr. Hall, correct, sir?
A Yes.
Q And this document says: This document is provided in order to comply with professional standards and to verify that you have identified and directed that various funds from Summit as a result of your Workers' Compensation settlement received by this firm are non-refundable, non-client funds that are to be deposited at this firm's discretion for distribution. You did not perform your audit based upon that language, correct?
A I did not perform my audit based on what?
Q Based upon that language.
A That line uses nonsense words, so how can I -- your question doesn't make any sense to me at all.

Q Okay, is it my question that doesn't make sense, or you feel, like you stated, these are nonsense words, so you didn't consider it in the performance of your duties as an auditor of the Florida Bar?
A You are asking me if I treated nonsense as if it was a legitimate statement. I don't know what to say to that.
Q Okay, so it's nonsense to you that a client, an individual, who you never met, could direct his attorney to handle funds in a certain way, is that true, sir?
A Well, I have to ask you for definitions. What is a non-client fund? Why would a settlement that belongs to Jason Hall be non-refundable? I mean, you have to define some things for me, because I've never seen these terms before.

(Trial Transcript, pp. 628-631). John Harvard did a comprehensive, item by item documentation of the accounting and rendered an accounting report consistent with accounting standards, and qualified his opinion based on the documents received, not based on his opinions. Exhibit B.

II. VIOLATIONS OF SECTION 455.227, FLORIDA STATUTES

Section 455.227, Fla. Stat., provides as follows:

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:
(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.
. . .
(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.
. . .
(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.
(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

Mr. Jeter is misleading the court and the public, and the unlicensed entity, contrary to the rules regulating accountants, as to his competence to render factual opinions as an accountant as to intent and knowledge of the intent of a deceased person and a person he has never met, with signed and sworn documents that are contrary to his opinions. His report is negligent at the very least, his testimony is outside of his scope of knowledge or expertise, and he is performing professional responsibilities that he knows, or has reason to know, he is not competent to perform.

6. In sum, based on the Referee' bias and prejudice towards the Florida Bar in not holding the Florida Bar accountable to its own Florida Bar Rules, nor holding attorneys involved in extortion, perjury, and extensive violations of Florida Bar Rules accountable for their violations, nor holding experts accountable to the limitations of their expertise as found in statute, and the Court's own violations of Cannon 3(D), the Report of Referee has demonstrated mistakes, inadvertence, fraud, bias and prejudice, misrepresentation and misconduct of an adverse party.

WHEREFORE for the foregoing reasons, pursuant to Rule 1.540(b), Florida Rules of Civil Procedure, Respondent must be granted relief from the Report of Referee and as it is clearly and manifestly wrong on so many fronts. The Report of Referee must be dismissed, and Respondent granted relief from this clearly and manifestly wrong Report of Referee.

Respectfully submitted on this 22nd Day of December 2021.

/s/ Phillip Timothy Howard
PHILLIP TIMOTHY HOWARD, J.D., Ph.D.
Florida Bar No.: 0655325
3122 Mahan Drive, Suite 801
Tallahassee, Florida 32308
Telephone: (850) 510-6021
Tim@HowardJustice.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of December 2021, I electronically filed the foregoing with the Clerk of the Court for the Second Judicial Circuit, in and for the State of Florida, Leon County, by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/ Phillip Timothy Howard
Phillip Timothy Howard, Esq.