

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

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

Complainant,

vs.

PHILLIP TIMOTHY HOWARD,

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

Respondent.

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NOTICE OF INTENT TO SEEK REVIEW OF REPORT OF REFEREE

Pursuant to Rule 3-7.7, Florida Rules Regulating the Florida Bar, Respondent hereby gives Notice of Intent to Seek Review of the Report of Referee in this action.

Respondent seeks review of the entire Report of Referee as the Report is erroneous, unlawful, and unjustified, and both the Florida Bar and Referee are complicit with known immoral¹ and criminal conduct. Morality trumps technicality.² Without morality, technicality has no meaning. The Florida Bar now has technicality trumping morality. This is the moral abyss that the Florida Bar and the Courts of Florida are now careening towards.

Respondent seeks review of the Report of Referee and its reliance on inferences, hearsay,³ and opinions from witnesses that had no factual involvement nor knowledge of the relevant facts, who were

¹ **Morality** (from Latin: *moralitas*, *lit.* 'manner, character, proper behavior') is the differentiation of intentions, decisions and actions between those that are distinguished as proper (right) and those that are improper (wrong). Morality can be a body of standards or principles derived from a **code of conduct** from a particular **philosophy**, religion or culture, or it can derive from a standard that a person believes should be universal. Morality may also be specifically **synonymous** with "**goodness**" or "**rightness**".

Moral philosophy includes **meta-ethics**, which studies abstract issues such as moral **ontology** and moral **epistemology**, and normative ethics, which studies more concrete systems of moral decision-making such as deontological ethics and consequentialism. An example of normative ethical philosophy is the Golden Rule, which states: "One should treat others as one would like others to treat oneself."

² **Technicality** implies that strict adherence to the letter of the law which has prevented the spirit of the law from being enforced.

³ **Hearsay** is fraught with maligned justice and that is why it is not generally accepted in civil and criminal cases. *See* Florida Rules of Evidence, 90.801, Fla. Stat. In the trial of Sir Walter Raleigh for treason in 1603, the primary evidence against him was a sworn "confession" of Lord Cobham, Raleigh's alleged co-conspirator. Raleigh alleged that Cobham had recanted. Raleigh objected to the admission of

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furthering criminal extortion schemes, and in violation of any semblance of morality, evidentiary standards, or truth.

Respondent seeks review of a Report of Referee that adopts both the weaponized use of Florida Bar Complaints for criminal conduct and the institutional incentives “*incurvatus in se*”⁴ predilection to accept and advance bias of intentional and criminally constructed toxic narratives to fit within technical rules, while denying fundamental morality. The heart of man, and consequently his institutions, are deeply corrupted, perennially seeking dying treasures of worldly power, wealth and social status.⁵ The

this hearsay statement and demanded that Cobham, who was being held in the Tower of London where the trial was being held, be brought to court to testify. Raleigh’s objection was ignored and he was convicted and later executed. His conviction and execution may have helped fuel outcry against the reliance on hearsay in criminal prosecutions. During this period use of witness hearsay statements, both oral and written, including sworn statements, as was the custom in civil law systems, was becoming increasingly criticized and the reliability of such statement was increasingly questioned. One factor that may have also played a role in the development of the hearsay rule was the failure of the English system to develop a system of proof comparable to the two witnesses rule found in civil and canon law systems.

From the 1600’s through the 1800’s the rule developed slowly. At first, hearsay was to be fully excluded. Hearsay could be received in confirm or corroboration other evidence, though it was not independently admissible. Although the precise timing and reasons for the hearsay rule can never be completely unknown, the rule became universally accepted in the English and American legal system by the mid to late 1800s.

⁴ Augustine of Hippo and Martin Luther used the term “*incurvatus in se*” to describe our nature as deeply curved in on itself from the first sin, as it only bends our best gifts of God towards self-glory—our heart “fails to realize that it so wickedly, curvately, and viciously seeks all things, even God, for its own sake.” See Martin Luther’s exposition on Romans. In other words, despite our best efforts to get beyond ourselves, to love and serve others to the best of our ability, human beings find it impossible to escape the black hole of self-interest, and we are often unconscious of this fact, even as it in fact drives our behavior. This applies to individuals, religious institutions, and secular institutions, such as the Florida Bar.

⁵ “*Incurvatus in se*” is alive and well in the The Florida Bar and Courts of Florida. Respondent has seen the entire Florida Supreme Court violate the rule of law and immorally deny the facts and written documents when its institutional interests trumped the facts and law. Respondent filed and litigated Governor Lawton Chiles’ tobacco complaint and appeals. The Florida Supreme Court ruled 7-0 that the \$100s of millions in funds initially received from Big Tobacco went directly to the State of Florida, without going into an independent account and without an accounting of fees and costs, based on the plain reading of the fee contract.

The contract for legal services plainly states that upon the settlement becoming [17] final all monies are to be transmitted to the State.** The contract further provides that "payment for the legal services covered by this contract shall be based on a contingency fee percentage of the dollars recovered and reimbursed to the Department." Contract for Legal Services, Attachment I, P C.1. Moreover, pursuant to the Settlement Agreement, all payments made by the Settling Defendants are made for the benefit of the

Florida Bar's complicity in adopting contrived toxic narratives that fit within technical rules but are knowingly submitted with untruths to advance known criminal conduct and extortion, is causing its moral disintegration. The Florida Supreme Court can take steps to restore The Florida Bar's legitimacy by: (1) demanding moral and legal legitimacy in all filed Florida Bar complaints, (2) rejecting every criminal extortionate or perjured Florida Bar complaint, and (3) stop turning a blind eye to weaponized Florida Bar complaints and criminal extortion. These steps can end its death march into moral oblivion.⁶

Respondent seeks review of the Report of Referee which chose inferences and hearsay that fit within the constructed toxic narratives, criminal schemes, and immoral institutional incentives, yet did not accept undisputed and sworn written evidence.

Consider that the Report of Referee either did not accept or give weight to the following undisputed evidence:

- (1) The written, signed and notarized sworn directives in July of 2008 of the client, Jason Hall, who was deceased in 2012;
- (2) The written, signed and notarized sworn verification that deceased client, Jason Hall, was no longer a client as of early September of 2008;
- (3) The sworn and notarized statements, as well as testimony, by the only witnesses with direct involvement with the deceased client, Jason Hall's intentions and capacities;

State. The initial payments were paid into an escrow account in order to protect the Settling Defendants' interest in the funds until the Settlement Agreement became final. Thereafter, payments are to be made to the State.

State v. Am. Tobacco Co. 723 So.2d 263, 268 (Fla. 1998) (emphasis added). This was an abject violation of facts, law and morality, as Respondent drafted both the contract and the memorandum signed by the parties to interpret the contract, and both documents clearly stated (consistent with standard Florida Bar rules that fees go into a trust account and after accounting and closing statement are distributed) that the funds did not go to the State of Florida until the funds went into an independent account, independent accounting took place, and the net funds after fees and costs were paid, would go to the State of Florida.

Respondent has seen the Florida Bar turn an ethics violation blind eye towards paying nearly \$1 billion to five Texas law firms and the Levin Papantonio law firm, when these firms never appeared in the Florida case, never signed a fee agreement with the State of Florida and did no work on the Florida case. The University of Florida Law School is even now named the *University of Florida Levin College of Law* based on these ethical violations.

⁶ Attorneys in other states, such as New Jersey, do not use bar complaints as a tactical extortion weapon, and their bar associations and courts do not support the same. Florida can change its ethos towards morality and thereby its technical rules will have meaning.

- (4) That the Bar Complaint was not filed by the deceased client, Jason Hall;
- (5) That the ex-wife, Dana Hall, didn't file a civil action based on her theory of breach of contract, which was the core of the Florida Bar Complaint;
- (6) The written and signed verification by mother of ex-wife, Sandra Fulup, of complete acceptance of accounting with counsel review available, and final payment;
- (7) The written verification in 2016 of criminal extortion of \$353,000 by ex-wife, Dana Hall, of deceased client;
- (8) That the ex-wife, Dana Hall, hadn't worked in nearly 10 years;
- (9) That the ex-wife, Dana Hall, divorced the deceased client, Jason Hall, as soon as she could get money from the workers' compensation trial and payment;
- (10) That the ex-wife, Dana Hall, was given the deceased client, Jason Hall's closed file in January of 2014, and ex-wife, Dana Hall, filed the extortionate Bar Complaint in July of 2016;
- (11) That the ex-wife, Dana Hall, upon written request, wouldn't return the original file so that Respondent could verify the documents and Respond;
- (12) That since the ex-wife, Dana Hall's \$353,000 extortion demand was not paid, she and her mother, Sandra Fulup, filed a Bar Complaint in 2016;
- (13) That since by 2016, there was no file nor bank records from 2008 for the attorney to respond to the Bar Complaint with;
- (14) The accurate accounting of CPA on contract repayment (Attorney JB Harris' filing a Board of Accounting Complaint against CPA in order to further his unethical and criminal extortion scheme, when the matter did not involve Attorney JB Harris)
- (15) The sworn transcripts of former client, Peggy Harris, documenting criminal perjury, fraud, and use of Bar by attorney JB Harris in using the Bar Complaint as extortion;
- (16) The sworn transcripts of Peggy Harris that the Bar Complaint was never read by her, yet she signed under penalty of perjury that she read the Bar Complaint and all that was in the Bar Complaint was true and factual;
- (17) That Attorney JB Harris manufactured the Bar Complaint by Peggy Harris as part of his extortion and schemed to have the Peggy Harris sign the Bar Complaint to accomplish his extortion; and
- (18) That the Florida Bar and Referee know these facts yet knowingly, intentionally and immorally supported and are complicit in criminal extortion, perjury, and fraud.

Respectfully submitted on this 19th Day of August 2021.

/s/ Tim Howard
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August 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/ Tim Howard
Tim Howard, Esq.