

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JIULIO MARGALLI,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File Nos.

2019-70,095(16A)

2019-70,126(16A)

2019-70,157(16A)

2019-70,158(16A)

2019-70,177(16A)

2019-70,235(16A)

_____/

**PETITION FOR APPROVAL OF CONDITIONAL GUILTY PLEA FOR
CONSENT JUDGMENT**

COMES NOW, The Florida Bar, by and through undersigned counsel, and respectfully requests this Court approve the Conditional Guilty Plea for Consent Judgment filed and attached as Exhibit A and says:

1. Respondent is and was at all times mentioned herein a member of The Florida Bar admitted on November 17, 1993 and is subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent tendered a Conditional Guilty Plea for Consent Judgment in this case prior to the filing of a formal complaint with the Supreme Court of Florida.

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3. Pursuant to Rule 3-7.9 of the Rules of Discipline of The Florida Bar, the Conditional Guilty Plea for Consent Judgment has been approved by The Florida Bar.

4. The Bar's Statement of Costs is being filed with this petition.

WHEREFORE, The Florida Bar respectfully requests that the Conditional Guilty Plea for Consent Judgment be accepted, the proposed discipline be imposed and the Bar be awarded costs.

Respectfully submitted,



Jennifer R. Falcone, Bar Counsel
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CERTIFICATE OF SERVICE

I certify that this document has been efiled with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided to Richard Baron, Attorney for Respondent, via email at rb@richardbaronlaw.com; and to Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300, via email at psavitz@floridabar.org, on this 7th day of December, 2021.



Jennifer R. Falcone, Bar Counsel

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2019-70,235(16A)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, Jiulio Margalli, and files this Conditional Guilty Plea for Consent Judgment pursuant to Rule 3-7.9 of the Rules Regulating The Florida Bar.

1. Respondent is, and at all times mentioned herein was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent is currently the subject of disciplinary matters which have been assigned *The Florida Bar File Nos. 2019-70,095(16A), 2019-70,126(16A), 2019-70,157(16A), 2019-70,158(16A), 2019-70,177(16A) and 2019-70,235(16A)*. There has been a finding of probable cause in each of these matters by the Grievance Committee.

EXHIBIT

A

3. Respondent is acting freely and voluntarily in this matter, and tenders this Plea without fear or threat of coercion. Although respondent asserts there are additional facts and circumstances surrounding these complaints, he recognizes that entering into the instant consent judgment is in his best interest. Respondent is represented in this matter.

4. As to *The Florida Bar File No. 2019-70,095(16A)* [complaint of Joyce Benavides], the following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. Respondent represented Ms. Benavides from 2013 through 2017. Initially, respondent provided beneficial legal services throughout the pre-suit proceedings and mediation. Throughout this period, Ms. Benavides paid approximately \$8,000.00 in fees.

B. The mediation was unsuccessful, and the opposing party filed suit. In July 2017, respondent requested an additional \$3,500 in fees.

C. After payment of the additional retainer, respondent failed to file an Answer or raise Ms. Benavides' counterclaims.

D. Respondent failed to respond to opposing counsel and the court, and failed to appear at two hearings on the plaintiff's motions for default.

E. In July 2018, Ms. Benavides received notice from the court that she had been defaulted. Ms. Benavides was required to hire a new attorney, who successfully moved to vacate the default; however, she lost the opportunity to pursue her counterclaims for damages and medical expenses.

F. Respondent failed to return Ms. Benavides' file materials, including original documents, upon request of successor counsel.

G. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), 4-1.2 (Objective and Scope of Representation), 4-1.3 (Diligence), 4-1.4 (Communication), 4-1.5 (Fees and Costs for Legal Services), and 4-1.16 (Declining or Terminating Representation).

5. As to *The Florida Bar File No. 2019-70,126(16A)* [complaint of Amy Higgins], the following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. Respondent was formerly married to Ms. Higgins. Respondent engaged in misconduct throughout the course of the dissolution and post-dissolution proceedings.

B. Respondent failed to comply with the terms of the marital settlement agreement, and with subsequent court orders. For instance,

respondent sold a property in France, and deposited the proceeds into a French bank account. Respondent then failed to inform Ms. Higgins of the sale, and failed to provide the portion of the sale proceeds necessary to satisfy the marital settlement agreement.

C. Respondent made misrepresentations to the court regarding his need for continuances, and his inability to pay expenses required pursuant to the terms of the marital settlement agreement.

D. Additionally, respondent continued to communicate directly with Ms. Higgins, despite his awareness she was represented in this matter, and that both she and her lawyer issued instructions to communicate only through counsel.

E. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rules 4-3.3 (Candor Toward the Tribunal), 4-3.4 (Fairness to Opposing Party and Counsel), 4-4.1 (Transactions with Persons Other than Clients; Truthfulness in Statements to Others), 4-4.2 (Communication with Person Represented by Counsel), and 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

6. As to *The Florida Bar File No. 2019-70,157(16A)* [complaint of John Uberti], the following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. In April 2018, Mr. Uberti paid respondent \$5000.00 to file a wrongful termination suit.

B. Respondent did not file anything on behalf of Mr. Uberti.

C. Respondent informed Mr. Uberti that he was sick and unable to perform the work. Respondent, however, took no action to refund the fee.

D. When no services were performed, Mr. Uberti disputed the \$5,000.00 fee through his credit card company. Respondent did not contest the return of the fee in that process, and the credit card company returned same to Mr. Uberti. Respondent remains obligated to the bank for that amount.

E. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), 4-1.2 (Objective and Scope of Representation), 4-1.3 (Diligence), 4-1.4 (Communication), and 4-1.5 (Fees and Costs for Legal Services).

7. As to *The Florida Bar File No. 2019-70,177(16A)* [complaint of Raven Cooper], and *The Florida Bar File No. 2019-70,158(16A)* [complaint

of Robert Bursley], the following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. These two complainants are husband and wife, and each filed a separate complaint. Ms. Cooper stated she paid respondent \$5,000.00 to represent her in a Florida Department of Children and Families (DCF) case in Broward County.

B. Ms. Cooper alleged respondent failed to communicate with her, and was unprepared when he appeared in court for the first hearing.

C. Despite these issues, Ms. Cooper thereafter hired respondent again for an unrelated criminal matter for which she paid \$1500.00.

D. In the subsequent criminal matter, Ms. Cooper alleged respondent failed to communicate with her about the case, and that he appeared in court unprepared. Ms. Cooper stated that due to respondent's lack of preparation she was required to take a plea.

E. In his response, respondent stated that complainant tested positive for drugs and that was why it was in her best interest to take a plea. The court wanted her to participate in a rehabilitation program, and Ms. Cooper did not wish to do so.

F. Despite the above allegations, Ms. Cooper and Mr. Bursley hired respondent again to represent Mr. Bursley in a domestic violence case in which Ms. Cooper was the alleged victim. The complainants state that Ms. Cooper “falsely accused” Mr. Bursley of domestic violence, and that she subsequently recanted.

G. By reason of the foregoing, as to *The Florida Bar File No. 2019-70,177(16A)* [complaint of Raven Cooper], respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), and 4-1.4 (Communication).

H. By reason of the foregoing, as to *The Florida Bar File No. 2019-70,158(16A)* [complaint of Robert Bursley], respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), 4-1.4 (Communication), and 4-1.7 (Conflict of Interest; Current Clients).

8. As to *The Florida Bar File No. 2019-70,235(16A)* [complaint of Lucia Mayer], the following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. In May 2017, Ms. Mayer paid respondent \$2,500.00 to either settle a lien placed on her home, or go to trial.

B. When no settlement resulted, Ms. Mayer made numerous attempts to communicate with respondent. Respondent failed to respond

to any of the hundreds of phone calls, messages and texts sent by Ms. Mayer.

C. In response to the Bar complaint, respondent indicated that he was in the midst of negotiating a settlement in this matter when he became ill. Respondent contends that the fee paid in this matter was earned during these settlement negotiations.

D. The opposing counsel for Bank of America left the firm, and the successor counsel did not know anything about any prior negotiations.

E. Ms. Mayer was required to hire new counsel to conclude the matter.

F. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), 4-1.2 (Objective and Scope of Representation), 4-1.3 (Diligence), 4-1.4 (Communication), and 4-1.5 (Fees and Costs for Legal Services).

9. Respondent submits the following as mitigation: Respondent is a lawyer in the Florida Keys. In and around the time of his divorce, respondent began exhibiting symptoms of a mental health condition. The neglect of client matters and misconduct attendant to his divorce proceedings described above appear to be directly related to, and resulting

from, respondent's spiraling mental health condition. There is some indication respondent may have engaged in abuse of substances as a form of self-medicating. His family members became so concerned for him in this time period that they called police to do a welfare check. During the welfare check, the police required respondent to voluntarily relinquish the guns in his home or risk being subjected to Baker Act proceedings. This interaction with police led to respondent being placed on the inactive list and seeking help through in-patient treatment, followed by continued outpatient treatment and voluntarily entering into a contract with Florida Lawyers Assistance, Inc. (FLA) which currently remains in effect.

10. Moreover, in the interim, respondent has settled the issues related to his divorce proceeding, including the prior allegedly contemptuous conduct, and that matter has been conclusively resolved without a finding of contempt.

11. The disciplinary measures to be imposed upon respondent are as follows:

A. Two year suspension *nunc pro tunc* to December 20, 2018, the date of the Supreme Court of Florida's order in Supreme Court Case No. SC18-1916, granting respondent's Petition for Placement on Inactive List for Incapacity Not Related to Misconduct, and classifying

respondent as an inactive member pursuant to Rule 3-7.13 of the Rules Regulating The Florida.

B. Respondent shall remain under contract with Florida Lawyers Assistance, Inc. (FLA), for an additional two years starting from the date of signing the instant consent judgment. The contract will be monitored by FLA until such time as respondent has completed the contract. Additionally, respondent will undergo an evaluation facilitated by FLA prior to any attempt to establish rehabilitation in a reinstatement proceeding, and obtain FLA's support for his reinstatement.

C. Respondent shall pay restitution to the following former client/ complainant in the amount delineated below within six (6) months of the entry of the order of the Supreme Court of Florida approving the instant consent judgment.

- i. As to *The Florida Bar File No. 2019-70,095(16A)* [complaint of Joyce Benavides], respondent shall pay restitution to Ms. Joyce Benavides in the amount of \$3,500.00.

Respondent must submit proof of payment of restitution to the bar's headquarters office in Tallahassee within the time frame for payment of the court's order. Respondent shall provide verifiable proof of payment and receipt which shall consist of a copy (front and back) of the negotiated check or a copy of the check and certified return receipt. In the event the

client cannot be located after a diligent search, respondent shall execute an affidavit of diligent search and provide same to The Florida Bar and shall pay the full amount of the restitution to the Clients' Security Fund of The Florida Bar.

D. Respondent shall participate in The Florida Bar's Fee Arbitration Program with Lucia Mayer [*The Florida Bar File No. 2019-70,235(16A)*], should she consent to same. Respondent must comply with this condition by signing a fee arbitration agreement within 30 days of the date of the Supreme Court's order approving this consent judgement. Respondent agrees to be bound by the decision of the arbitrator and satisfy any award in accordance with Chapter 14 of The Rules Regulating The Florida Bar. Failure to abide by the decision of the arbitrator is in direct violation of this order and will result in respondent being deemed delinquent. In order for The Florida Bar's Fee Arbitration department to proceed, respondent must first submit an application to the Fee Arbitration Coordinator, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, within 30 days of the court's order. Respondent must provide proof of submission of this application to the bar's headquarters' office.

E. Payment of the bar's disciplinary costs in this proceeding.

12. Respondent acknowledges that, unless waived or modified by the Court on motion of respondent, the court order will contain a provision that prohibits respondent from accepting new business from the date of the order or opinion and shall provide that the suspension will take immediate effect, and will be entered *nunc pro tunc* to December 20, 2018, the date of the Supreme Court of Florida's order in *Supreme Court Case No. SC18-1916*, granting respondent's Petition for Placement on Inactive List for Incapacity Not Related to Misconduct, and classifying respondent as an inactive member pursuant to Rule 3-7.13 of the Rules Regulating The Florida.

13. The Florida Bar has approved this proposed plea in the manner required by Rule 3-7.9.

14. If this plea is not finally approved by the Board of Governors of The Florida Bar and the Supreme Court of Florida, then it shall be of no effect and may not be used by the parties in any way.

15. Respondent agrees to eliminate all indicia of respondent's status as an attorney on social media, telephone listings, stationery, checks, business cards office signs or any other indicia of respondent's status as an attorney, whatsoever. Respondent will no longer hold himself

out as a licensed attorney, until such time as he may be reinstated in subsequent proceedings.

16. If this plea is approved, then respondent agrees to pay all reasonable costs associated with this case pursuant to Rule 3-7.6(q) in the amount of \$1,250.00. These costs are due within 30 days of the court order. Respondent agrees that if the costs are not paid within 30 days of this court's order becoming final, respondent shall pay interest on any unpaid costs at the statutory rate. Respondent further agrees not to attempt to discharge the obligation for payment of the Bar's costs in any future proceedings, including but not limited to, a petition for bankruptcy. Respondent shall be deemed delinquent and ineligible to practice law pursuant to Rule 1-3.6 if the cost judgment is not satisfied within 30 days of the final court order, unless deferred by the Board of Governors of The Florida Bar.

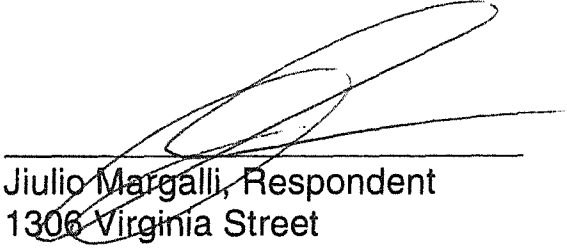
17. Respondent acknowledges the obligation to pay the costs of this proceeding (and any agreed restitution) and that payment is evidence of strict compliance with the conditions of any disciplinary order or agreement, and is also evidence of good faith and fiscal responsibility. Respondent understands that failure to pay the costs of this proceeding or

restitution will reflect adversely on any other bar disciplinary matter in which respondent is involved.

18. If this plea is approved, and restitution is owed, if the person to whom restitution is owed cannot be located after a diligent search, respondent shall execute an affidavit of diligent search and provide same to The Florida Bar and shall pay the full amount of the restitution to the Clients' Security Fund of The Florida Bar within 30 days of the date of the affidavit of diligent search.

19. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of the Rules Regulating The Florida Bar.

Dated this 19 day of November, 2021.



Julio Margalli, Respondent
1306 Virginia Street
Tavernier, FL 33070-2057
305-295-1372
Florida Bar No. 992216

Dated this 19 day of November, 2021.



Richard Baron, Attorney for Respondent
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Dated this 19 day of November, 2021.



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