

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

ANTONIO GIOVONNIE MARTIN,

Respondent.

Supreme Court Case No.  
SC

The Florida Bar File No.  
2019-30,880(10B)

**COMPLAINT**

The Florida Bar, complainant, files this Complaint against Antonio Giovonnie Martin, respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is and was at all times mentioned herein a member of The Florida Bar admitted on April 20, 2010 and is subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent resided and practiced law in Polk and Osceola Counties, Florida, at all times material.

3. The Tenth Judicial Circuit Grievance Committee "B" found probable cause to file this complaint pursuant to Rule 3-7.4, of the Rules Regulating The Florida Bar, and this complaint was approved by the presiding member of that committee.

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4. Respondent engaged in a conflict of interest when he concurrently represented Don Genutis, the grantor, David Dey, the beneficiary, and himself as trustee and counsel for Messrs. Genutis and Dey in the creation of a land trust, as well as representing Mr. Genutis in foreclosure defense for the subject property.

5. In March 2016, Mr. Dey, respondent's existing client, contacted Mr. Genutis, the owner of property located at 2261 Couples Drive, Lakeland, Florida, to discuss a possible transaction involving Mr. Genutis' property that was about to go into foreclosure.

6. As part of the transaction, respondent was hired by both Mr. Genutis and Mr. Dey to evaluate any mortgage defects, review appraisals, and to look for a method to save the property from foreclosure.

7. After a conference call between Mr. Genutis, Mr. Dey, and respondent, the parties agreed to place the property into a Land Trust where respondent would represent himself as trustee, Mr. Genutis as grantor, and Mr. Dey as the beneficiary of the trust.

8. Mr. Genutis believed that he would receive some benefit by placing his property into the land trust.

9. If a foreclosure proceeding was filed, respondent would represent Mr. Genutis in any foreclosure defense.

10. Despite the existence of a conflict of interest, respondent did not obtain a signed, written waiver from Mr. Genutis or recommend that Mr. Genutis consult with independent counsel.

11. Respondent did not obtain a signed conflict waiver from anyone, at any time, during the pendency of this matter.

12. On March 19, 2016, Messrs. Genutis and Dey provided respondent with a signed real estate contract binding the interest of Mr. Genutis and the Land Trust, a quit claim deed signed by Mr. Genutis transferring the property into Couples Drive Land Trust, and a limited power of attorney to allow respondent to act on Mr. Genutis behalf with regard to the property.

13. Respondent did not provide any legal advice to Mr. Genutis concerning Mr. Genutis' contract with Mr. Dey, its viability, enforcement, or the conflict of interest.

14. Respondent did not advise Mr. Genutis that he gave up his titled ownership of the property while remaining liable for the note and mortgage.

15. On or about December 15, 2016, a foreclosure proceeding, Case No. 2016-CA-004238, was filed against Mr. Genutis regarding the

subject property located at 2261 Couples Drive, Lakeland, Florida, in the Tenth Judicial Circuit, Polk County.

16. In early 2017, upon receiving notice that Mr. Genutis was served with residential foreclosure documents, respondent's office filed a notice of appearance and the signed documents that were provided by Mr. Genutis to respondent in 2016.

17. Respondent represented Mr. Genutis in the foreclosure proceeding and filed documents on Mr. Genutis' behalf without Mr. Genutis' knowledge or consent.

18. In or about February 2019, Mr. Genutis sent a letter to respondent and indicated that Mr. Genutis was unable to contact or communicate with Mr. Dey.

19. Mr. Genutis inquired whether he would receive any benefit from the creation of the land trust.

20. Thereafter, Mr. Genutis and respondent spoke on several occasions to discuss whether a conflict of interest existed between Mr. Dey, Mr. Genutis, and respondent.

21. Respondent filed a motion to withdraw from the foreclosure proceeding.

22. Although Mr. Dey had no liability in the transaction, as beneficiary of the trust, Mr. Dey could ultimately obtain ownership of the property if it was not lost in the foreclosure proceeding.

23. Respondent received payments arising from his position as trustee and his work as attorney for all parties to the transaction.

24. While respondent represented Mr. Genutis in the foreclosure proceeding, respondent did nothing to further his fiduciary obligations to Mr. Genutis as trustee of the land trust.

25. Respondent did not protect Mr. Genutis' interests by failing to warn Mr. Genutis of his continuing liability on the note and mortgage or of Mr. Genutis' increasing tax indebtedness from the property that was transferred into the land trust.

26. By reason of the foregoing, respondent violated the following Rules Regulating The Florida Bar:

(a) 3-4.3 Misconduct and Minor Misconduct. The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance

thereof. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline;

(b) 4-1.2(a) Lawyer to Abide by Client's Decisions. Subject to subdivisions (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by rule 4-1.4, shall reasonably consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify;

(c) 4-1.4(a) Informing Client of Status of Representation. A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be

accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law;

(d) 4-1.7(a) Representing Adverse Interests. Except as provided in subdivision (b), a lawyer shall not represent a client if: (1) the representation of 1 client will be directly adverse to another client; or (2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer;

(e) 4-1.7(b) Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if: (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; (3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal;

and (4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing;

(f) 4-1.7(c) Explanation to Clients. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved; and,

(g) 4-8.4(d) A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice.

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.

A handwritten signature in black ink, reading "Kenneth H. P. Bryk", enclosed within a rectangular border.

KENNETH H. P. BRYK  
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### **CERTIFICATE OF SERVICE**

I certify that this document was e-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida: with copies provided via email to Barry William Rigby, Counsel for Respondent, at [barryrigbylaw@gmail.com](mailto:barryrigbylaw@gmail.com) and by certified U.S. Mail No. 7017 1450 0000 7821 0896, return receipt requested, to Barry William Rigby, Counsel for Respondent, whose record bar address is 1881 Lee Road, Winter Park, Florida 32789-2102; and, via email to Kenneth H. P. Bryk, Bar Counsel, The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, at [kbryk@floridabar.org](mailto:kbryk@floridabar.org) and [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org), on this 15th day of June 2021.



Patricia Ann Toro Savitz  
Staff Counsel

**NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY EMAIL ADDRESS**

PLEASE TAKE NOTICE that the trial counsel in this matter is Kenneth H. P. Bryk, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, 407-425-5424, and [kbryk@floridabar.org](mailto:kbryk@floridabar.org) and [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org). Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to Staff Counsel, The Florida Bar, 651 E Jefferson Street, Tallahassee, Florida 32399-2300, at [psavitz@floridabar.org](mailto:psavitz@floridabar.org).

**MANDATORY ANSWER NOTICE**

RULE 3-7.6(h)(2), RULES REGULATING THE FLORIDA BAR, PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.