

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC22-1110

v.

The Florida Bar File
No. 2019-50,731(15E)FFC

BRIAN ALFRED MANGINES,
Respondent.

_____ /

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. **SUMMARY OF PROCEEDINGS**

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

On August 24, 2022, The Florida Bar filed its Notice of Determination or Judgment of Guilt against respondent. On August 24, 2022, the Supreme Court of Florida entered an order suspending the respondent. The parties have presented me with a Conditional Guilty Plea for Consent Judgment, which has been approved by The Florida Bar and The Florida Bar Board of Governors' designated reviewer. After due deliberation, I have determined to recommend that respondent's Conditional Guilty Plea for Consent Judgment be approved, for the reasons set forth herein. All of the

aforementioned pleadings, responses thereto, exhibits received in evidence, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida. Respondent was represented by D. Culver Smith, Esq., and The Florida Bar was represented by Randi Klayman Lazarus, Esq.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary Of Case.

a. On May 16, 2022, respondent pleaded guilty to one count of patient brokering in violation of section 817.505(1), Florida Statutes, a third-degree felony. Adjudication was withheld, and he was sentenced to pay a fine of \$3,000.00 and court costs of \$200.00. He was placed on probation for a term of 24 months, among the conditions of which are that during the period of probation he not (1) in any capacity directly or indirectly perform any work related to healthcare, substance-abuse treatment,

clinical lab testing, or recovery housing or (2) engage in the practice of law. The period of probation may terminate after one year if no violation has occurred and all conditions of probation have been satisfied.

b. The criminal charges against respondent arose from his minority investment in Whole Life Recovery, LLC, and KKMBD, LLC, which were engaged in providing services related to outpatient substance-abuse treatment.

c. Respondent was not involved in the day-to-day operations of either company. His involvement was unrelated to his law practice.

d. The issue in his criminal case was his execution of a marketing agreement drafted by reputable lawyers representing Coastal Labs, Inc., which later made a single payment of \$5,401.10 to KKMBD, which the State asserted was for patient referrals. That was the sole transaction with Coastal Labs.

e. Respondent and his fellow investors were arrested as part of a sweep by the Palm Beach County Sober Home Task Force, which has made more than 100 arrests.

f. Respondent and his fellow investors always acted on advice of counsel and believed that they were acting within the bounds of the law.

g. Respondent has not profited from any of these activities and, in fact, has lost money on his investment. He chose to plead guilty rather than risk a more stringent sentence and subject himself and his family to the economic and emotional burdens that a trial inevitably would impose.

III. RECOMMENDATIONS AS TO GUILT

I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar, to which he has admitted:

R. Regulating Fla. Bar 3-4.3 (Misconduct and Minor Misconduct) and 4-8.4(b) (Criminal Misconduct).

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

5.1 Failure to Maintain Personal Integrity

(b) Suspension. Suspension is appropriate when a lawyer knowingly engages in criminal conduct which is not included elsewhere in this

subdivision or other conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

7.1 Deceptive Conduct or Statements and Unreasonable or Improper Fees

(b) Suspension. Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

V. CASE LAW

I considered the following case law prior to recommending discipline:

In The Florida Bar v. Del Pino, 955 So.2d 556 (Fla. 2007), the Florida Supreme Court held that a 3-year suspension from the practice of law was an appropriate sanction when an attorney participated in the fraudulent transfer of a condominium, was convicted of mail fraud, prepared and signed a false and fraudulent tax form, and was convicted of tax evasion.

In The Florida Bar v. Erlenbach, 138 So. 3d 369 (Fla. 2014), Erlenbach received a 1-year suspension plus two years' probation for failing to file income-tax returns for nine years and for failing to remit taxes

withheld from employees' pay. Although Erlenbach was not charged, both are federal crimes.

In The Florida Bar v. Phoenix, 311 So. 3d 825 (Fla. 2021), the Florida Supreme Court ordered a 2-year suspension for participating in a client's Ponzi scheme, and being actively involved in an effort to mischaracterize the nature of the client's business. Phoenix entered into a non-prosecution agreement with the U.S. Attorney's Office.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

- A. A suspension of two (2) years *nunc pro tunc* from August 24, 2022, the date of entry of respondent's felony suspension;
- B. Payment of The Florida Bar's costs.

Respondent will eliminate all indicia of respondent's status as an attorney on email, social media, telephone listings, stationery, checks, business cards, office signs or any other indicia of respondent's status as an attorney, whatsoever.

Respondent acknowledges that the suspension is effective *nunc pro tunc* from August 24, 2022, the date of entry of respondent's felony

suspension. The respondent ceased the practice of law on or about May 16, 2022, the date of his guilty plea, and does not require a 30 day close out period or a provision that prohibits respondent from accepting new business from the date of the order or opinion.

VII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following personal history of respondent, to wit:

Age: 59

Date admitted to the Bar: June 2, 1997

Prior Discipline: None

Mitigation:

a. Respondent has no prior disciplinary record with either The Florida Bar or the Connecticut Bar, and he never has been sanctioned by any court.

b. Respondent had no dishonest or selfish motive in investing in Whole Life Recovery, LLC, and KKMBD, LLC.

c. Respondent has made full and free disclosures to the Bar and has exhibited a cooperative attitude throughout these proceedings.

d. Respondent is of good character and enjoys an excellent reputation. Prior to moving to Florida in 1997, he served as the president of the Bridgeport (Connecticut) Bar Association Young Lawyers Division and thereafter as a member of the association's board of directors. He also served as co-chairman of the Young Lawyers Division of the Labor and Employment Section of the Connecticut Bar Association. He volunteered each Law Day by speaking to local high-school and elementary-school students, and he coached a high school moot court team that made it to the state semifinals in its first year of existence. He also volunteered for Habitat for Humanity. Since moving to Florida in 1997, he has devoted extensive personal time to volunteering for charitable and other organizations. In particular:

(1) Respondent volunteered to handle intakes for Legal Aid Society of Palm Beach County. Most of the cases involved grandparents seeking to adopt their grandchildren because their own children were absentee parents. Respondent had the utmost respect for those grandparents who were willing to make great personal sacrifices for their grandchildren. He recognized that he was very

blessed with a strong and united family unit as the youngest of eight children with parents who were married for 59 years.

(2) Respondent has been very active with Families First of Palm Beach County since 2013, serving on its board of directors and as Chairperson of its Legacy Planning Committee. Families First of Palm Beach County provides a comprehensive continuum of services in abuse prevention, housing, behavioral health, and overall health care to ensure that babies are born healthy and that parents get what they need to keep their families intact and to provide safe, loving homes for their children. The focus is on prevention and early intervention, so that abuse and other issues and the subsequent costs of long-term solutions are avoided.

(3) Respondent has volunteered for the V Foundation for Cancer Research, which funds research for cure of many types of cancer.

(4) Respondent has guest-lectured at several schools and universities, including Palm Beach State College and Kaiser University, and served on the advisory boards of Kaiser University's and South University's legal study programs.

e. Respondent is remorseful about becoming involved in an enterprise that may have engaged in unlawful practices.

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

I find the following costs were reasonably incurred by The Florida

Bar:

Administrative Fee	\$1,250.00
Investigative Costs	\$30.00
Court Reporter's Fee	\$90.00
TOTAL	\$1,370.00

It is recommended that such costs be charged to respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within 30 days of said judgment becoming final, respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this __21st__ day of __September, 2022.

/s/ Barbara Duffy

Barbara Duffy, Referee
201 SE 6th St., Room 6790
Fort Lauderdale, FL 33301-3355

Original To:

Clerk of the Supreme Court of Florida, Supreme Court Building, 500 South Duval Street, Tallahassee, Florida 32399-1927

Conformed Copies to:

D. Culver Smith, III, Counsel for Respondent, 500 S. Australian Ave., Suite 600, West Palm Beach, FL 33401-6237, csmith@culversmithlaw.com

Randi Klayman Lazarus, Bar Counsel, Ft. Lauderdale Branch Office, Lake Shore Plaza II, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323, rlazarus@floridabar.org and smiles@floridabar.org

Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300, psavitz@floridabar.org