

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC22-397

v.

The Florida Bar File
No. 2022-00,060(4A)

ROBERT LAURENCE PELLETIER,

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 March 28, 2022, The Florida Bar filed its Complaint against Respondent as well as its Request for Admissions in these proceedings. 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.

II. **FINDINGS OF FACT**

A. **Jurisdictional Statement.** Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar,

Received, Clerk, Supreme Court

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subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary Of Case.

1. On June 26, 2019, Thaddeus Surrency (Mr. Surrency), was criminally charged in three criminal cases with multiple counts, including felonies in Alachua County, Florida.

2. On June 29, 2019, Mr. Surrency was appointed a public defender in his criminal cases. Subsequently Mr. Surrency hired separate private counsel.

3. On June 7, 2021, Mr. Surrency's private counsel was permitted by order to withdraw as counsel. Mr. Surrency filed a motion requesting a court appointed lawyer.

4. On June 11, 2021, respondent was retained by Jennifer Surrency (Ms. Surrency), to represent her husband, Mr. Surrency in his three criminal cases for a flat fee of \$18,000.00.

5. Ms. Surrency paid respondent \$8,000.00, on June 10, 2021, and \$1,000.00, on June 11, 2021.

6. Ms. Surrency was a co-defendant to the criminal charges pending against her husband, Mr. Surrency.

7. Respondent only obtained Ms. Surrency's signature on the Retainer Agreement between respondent and Mr. and Ms. Surrency.

8. On June 14, 2021, respondent efiled a Notice of Appearance in Mr. Surrency's criminal matters.

9. Respondent's only contact with the assistant state attorney assigned to prosecute Mr. Surrency's case, was on June 15, 2021, with a one-line email, no phone call or follow up attempt to the email was made with the prosecutor.

10. On June 21, 2021, Mr. Michael Ruppert, was appointed off the Restricted Registry, to represent Mr. Surrency in his criminal cases.

11. An order was not entered appointing or substituting respondent in as counsel to Mr. Surrency's criminal cases.

12. On July 9, 2021, respondent was notified that Mr. Surrency signed a plea deal with the State Attorney's Office in his criminal cases with the assistance of his public defender.

13. On July 12, 2021, despite not being substituted in as counsel and after notification of Mr. Surrency's intent to enter a plea deal, respondent went to Gainesville, right before Mr. Surrency was to enter his plea in court, to meet with Mr. Surrency.

14. Respondent had not communicated with Mr. Ruppert, prior to meeting with Mr. Surrency.

15. The parties dispute whether sufficient work was conducted by respondent on behalf of Mr. Surrency.

16. On August 9, 2021, The Florida Bar received a complaint against respondent by Ms. Surrency.

17. On August 17, 2021, respondent was sent a letter notifying respondent of the complaint and giving him fifteen days, with the deadline of September 1, 2021, to respond to The Florida Bar's official inquiry.

18. Respondent failed to timely respond to The Florida Bar's official inquiry.

19. On September 2, 2021, respondent's employer, David Taylor, wrote The Florida Bar asking for an extension on behalf of respondent.

20. The Florida Bar granted an extension to September 30, 2021, to receive a response to the complaint.

21. Respondent again, failed to timely respond to The Florida Bar's official inquiry.

22. On October 6, 2021, respondent refunded Mr. and Ms. Surrency \$3,800.00, of the \$9,000.00, paid in legal fees.

23. On October 7, 2021, The Florida Bar notified respondent of his lack of responsiveness and gave him a final date of October 18, 2021, to provide a response.

24. On October 11, 2021, respondent provided a partial response to The Florida Bar's inquiry.

25. Respondent has not provided a full response to all The Florida Bar's inquiries.

26. Respondent possesses a boat that has a "boat wrap" advertisement for the firm he worked for that was not in full compliance with advertisement requirements.

27. Through discovery, respondent was able to provide that on April 28, 2021, pending addition of the location of the firm, respondent's boat wrap advertisement was approved by The Florida Bar's advisory staff review. Respondent has since provided a complete image of the boat wrap that incorporated the location of the firm, affirming his compliance for the advertisement rule requirements in accordance with the review.

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar: 4-1.4(a)(3) Communication, a lawyer shall keep the client reasonably informed about the status of the

matter; 4-1.3 Diligence; 4-1.7(a) Representing Adverse Interests; and 4-8.4(g) A lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency.

The Florida Bar voluntarily dismisses rules 4-1.5(a) Illegal, Prohibited, or Clearly Excessive Fees and Costs; and 4-7.13(a)(2) Deceptive and Inherently Misleading Advertisements, as part of this agreement upon acceptance of this plea.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

[4.4] Failure to Avoid Conflicts of Interest

(c) Public Reprimand. Public reprimand is appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests or whether the representation will adversely affect another client and causes injury or potential injury to a client.

[4.4] Lack of Diligence

(c) Public Reprimand. Public reprimand is appropriate when a lawyer is negligent, does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

[7.1] Deceptive Conduct or Statements and Unreasonable or

Improper Fees

(c) Public Reprimand. Public reprimand is appropriate when a lawyer negligently 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.

[8.1] Violation of Court Order or Engaging in Subsequent Same or

Similar Misconduct

(c) Public Reprimand. Public reprimand is appropriate when a lawyer:

(1) negligently violates the terms of a prior disciplinary order and that violation causes injury or potential injury to a client, the public, the legal system, or the profession; or

(2) has received an admonishment for the same or similar misconduct and engages in further similar acts of misconduct.

V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. John Lance Armstrong, SC21-390 (Fla. April 1, 2021) [TFB # 2019-50,296 (17G) – The Court approved a pre-Complaint Conditional Guilty Plea for Consent Judgment for a public reprimand, payment of restitution in the amount of \$5,000.00 to the client and completion of Ethics School. In October 2017, Harry Shirvanian hired respondent to represent him in a civil matter. Respondent accepted a \$5,000.00 fee for his services. After filing the civil case in December 2017,

respondent took little or no significant action in the matter. In October 2018, the court issued a Notice of Lack of Prosecution. A hearing on the motion was set for January 8, 2019. Respondent failed to respond in any way to the notice and failed to appear at the hearing. The case was dismissed for lack of prosecution by order dated January 14, 2019. Respondent failed to properly communicate with Shirvanian and failed to keep him apprised of the status of the matter. In October 2018, Shirvanian filed a complaint against respondent with The Florida Bar. Respondent failed to respond until February 1, 2019.

The Florida Bar v. Christine Marie Humphrey, SC20-1542 [2018-70,680 (11B), etc.] - By Court order dated November 5, 2020, respondent received a public reprimand and was ordered to pay restitution totaling \$5,000.00. Respondent failed to timely refund unearned fees, failed to provide diligent representation to one client, and failed to provide adequate communication to two separate clients. Additionally, respondent's website inaccurately reflected her experience. Respondent presented significant mitigation and she had a prior admonishment. Rules violated: 4-1.3; 4-1.4; 4-1.5; 4-7.13; 4-7.14; and 4-8.4(a).

The Florida Bar v. William S. Saliba, SC20-315 [2018-30,799(18A)]- By Court order dated July 30, 2020, the Court publicly reprimanded respondent and directed him to attend ethics school. Respondent engaged in a pattern of misconduct during his association with a business that assists clients in exiting their timeshare contracts. Respondent did not personally meet with the clients, and he had no direct supervision of the employees who communicated with the clients and the timeshare companies. One client filed a bar complaint alleging that respondent failed to diligently represent him and failed to provide adequate communication concerning his legal matter. Rules violated: 3-4.3; 4-1.3; 4-1.4(a), (b); 4-1.5(a); 4-5.3(b); 4-5.3(c); 4-5.4(a); 4-5.4(c); 4-5.4(d); 4-5.4(e); 4-7.18(a); and 4-8.4(a).

The Florida Bar v. José G. Oliveira, SC20-209 – By Court order dated March 5, 2020, the Court publicly reprimanded respondent by publication and ordered his attendance at Ethics School. Oliveira became involved in representing a client in a foreclosure case, at the request of another attorney with whom Oliveira had a professional relationship. Oliveira had little communication with the client during the foreclosure case. However,

he did consult with the referring attorney regarding the wording of a proposed business agreement that might prevent the client from losing all interest in one of the properties being foreclosed by selling the property to a business entity created by the referring attorney. After the client entered into the business arrangement with the referring attorney's business entity, Oliveira then began representing the referring attorney's business entity in the client's foreclosure case, thus impermissibly representing opposing sides in the same case. Oliveira failed to obtain written conflict of interest waivers from any of the parties.

The Florida Bar v. Rasheed Karim Allen, SC18-2110 – By Court order dated October 10, 2019, the Court publicly reprimanded respondent, ordered him to pay restitution and directed him to attend Ethics School. In two separate matters, respondent did not diligently handle the clients' matters and he did not clearly and adequately communicate with the clients regarding the status of their cases. In another matter, respondent did not clearly communicate with the client regarding the goals of the representation. Respondent and the client did not agree on the best course of action for the case and the client terminated respondent's representation. Respondent refunded the legal fees to the client.

The Florida Bar v. Frank J. Bankowitz, III, SC18-1268 (Fla. Aug. 23, 2018) [2018-30,082(13B)] - Pre-Complaint Conditional Guilty Plea for Consent Judgment approved for a public reprimand, restitution to Zens Alisma in the amount of \$2,500.00 and completion of Ethics School. Respondent failed to diligently represent a client in post-conviction matters prompting the client to file pro se documents in his case. During the representation, respondent also failed to maintain adequate communication with his client. Respondent has put procedures in place to ensure that an incident like this does not happen in the future.

The Florida Bar v. Mark Jerome Albrechta, SC15-1163 - By Court order dated August 18, 2016, respondent received a public reprimand. Respondent engaged in conflicts of interest involving his personal interest in real estate transactions. Respondent also failed to make written disclosure of the potential conflicts involved in his representation.

The Florida Bar v. Sarah E. Cox, SC15-336 – By order dated May 19, 2016, the Court approved the consent judgment and publicly reprimanded

Cox and ordered her to attend Ethics School. She failed to adequately communicate with her client regarding the amount and nature of the charges and application of funds received. The client and Cox are involved in civil litigation to resolve their dispute as to the monies paid and amounts owed between them.

The Florida Bar v. Adam Jeffrey Katz, SC15-1009 - By Court order dated March 24, 2016, respondent received a public reprimand and diversion to Ethics School. Respondent engaged in a conflict of interest in his representation of a corporation partially owned and operated by his girlfriend.

The Florida Bar v. Randall Albert Werre, SC15-129 - By Court order dated June 25, 2015, respondent received a public reprimand to be administered by the referee, and agreed to pay restitution, for neglecting three separate family law matters. The attorney also failed to timely respond to bar inquiries. He had no prior discipline.

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) Public Reprimand by publication; (b) attendance at Ethics School within 6 months of the Court's final order and payment of the \$750.00 workshop fee; and (c) payment of The Florida Bar's costs.

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: 48

Date admitted to the Bar: 09/24/2012

Prior Discipline: The Florida Bar Case No. 21-159, public reprimand

Aggravating Factors

1. [3.2(b)(1)] Prior discipline. Respondent was previously disciplined on July 29, 2021, by public reprimand in The Florida Bar case No. 21-159, for advertisement violations of the Rules Regulating The Florida Bar. This instant matter was pending at the time of the public reprimand in TFB case No. 21-159, and possibly could have been consolidated, for all matters against respondent to be handled within the first discipline.

2. [3.2(b)(4)] Multiple offenses. The complaint in this matter listed multiple violations of the Rules Regulating The Florida Bar.

3. [3.2(b)(9)] Substantial experience in the practice of law. Respondent has been a licensed attorney in the state of Florida since September 24, 2012.

Mitigating Factors

1. [3.3(b)(2)] absence of a dishonest or selfish motive.

2. [3.3(b)(12)] Remorse. Respondent has expressed remorse for his conduct.

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 Costs	\$1,250.00
Investigative Costs	\$600.75
TOTAL	\$1850.75

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 thirty 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 7th day of July, 2022.


Matthew MacLeod Foxman, Referee
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Original To:

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