

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Complainant,

v.

ROSEMARIE FELLER,
Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2019-30,056 (5B)

_____ /

COMPLAINT

The Florida Bar, complainant, files this Complaint against RoseMarie Feller, 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 December 20, 2001, and is subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent practiced law in Seminole County, Florida, at all times material.
3. The Fifth 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 has been approved by the presiding member of that committee.

RECEIVED, 12/20/2022 11:40:21 AM, Clerk, Supreme Court

4. Commencing in or around 2013 or 2014, respondent began providing various legal services to Bernard P. Mosco, Jr. and/or his wife, Ann Torres, as well as providing legal services to businesses owned by Mosco and/or Torres.

5. Some of the legal services respondent provided were in connection with two criminal cases filed against Mosco, one of which alleged Scheme to Defraud of \$50,000.00 or More, a 1st degree felony, where Mosco pled no contest to the lesser offense of petit theft for which he was sentenced to probation.

6. Respondent's representation of Mosco in this latter criminal case concluded on or about July 2, 2015, when the court granted the agreed motion to terminate Mosco's probation.

7. Respondent also represented Mosco and/or Torres in connection with a related proceeding against Mosco's check cashing business by the Florida Office of Financial Regulation.

8. Respondent represented Torres in May 2015 by filing the articles of organization for Appa, LLC with Ann Torres listed as the managing member.

9. In or around early 2016, Mosco and respondent discussed creating a law firm in which Mosco would have an ownership interest and would assist respondent in growing the law firm's business.

10. Respondent perceived Mosco to be an astute businessman and marketer.

11. The initial plan was for respondent, Mosco, and respondent's nonlawyer employee, Jamie Harper, to be co-owners of the law firm.

12. Thereafter, respondent and Mosco agreed to share office space together and that Mosco would teach respondent to run her law office in a more profitable manner while respondent would assist Mosco in becoming a mediator.

13. Respondent had no mediation experience, as her practice consisted primarily of criminal defense work, but respondent agreed to research the process for becoming a mediator for Mosco and to assist him in understanding the training materials.

14. Respondent believed that Mosco's eventual mediation business would benefit her law firm's future growth.

15. Mosco and respondent agreed to lease a large office space that would be able to accommodate Mosco's independent car dealership business and, later, his intended mediation business, as well as respondent's law firm.

16. On or about February 29, 2016, respondent formed a law firm, Feller Law Group, LLC, and Mosco was listed as an authorized member of

the firm on the electronic articles of organization despite his not being an attorney.

17. Mosco initially gave respondent \$50,000.00 to capitalize the law firm, executed a lease on behalf of the law firm, and made an application for a bank account on behalf of the law firm and was a signatory on the account.

18. After respondent learned that a nonlawyer could not have an ownership interest in a law firm, on or about March 17, 2016, respondent filed Articles of Amendment to Articles of Organization, removing Mosco as an authorized member and changing the name of her law firm from Feller Law Group, LLC, to Feller Law, PLLC.

19. On March 20, 2016, Mosco executed a lease on behalf of the law firm, which was witnessed by respondent, and for which he was the guarantor.

20. Ann Torres issued a check made payable to Feller Law PLLC on or about March 23, 2016, in the amount of \$37,083.44, which stated its purpose as the “[b]alance of \$50k to fund business.”

21. On or about June 24, 2016, respondent and Mosco opened an operating account for Feller Law, LLC. Both respondent and Mosco were authorized signatories on the account.

22. Respondent testified that she and Mosco had an agreement to share the expenses of running the office, such as sharing the expense of a copier, printer, electricity, and furniture for the waiting room.

23. Respondent permitted Mosco to have business cards for her law firm listing him as the "Director of Finance."

24. Mosco was responsible for the bookkeeping for respondent's law firm but was not compensated monetarily for this service.

25. Mosco contracted on behalf of respondent's law firm with a company in California that provided leads for personal injury claims.

26. Respondent had no experience with handling personal injury cases and was not licensed to practice law in any jurisdiction other than Florida and the Federal Court of Claims.

27. Upon learning of the leads contract, respondent canceled it but had to pay a penalty to do so.

28. Mosco also contracted on behalf of respondent's law firm for billboard advertising.

29. Although respondent was not aware of Mosco's billboard advertising contracts at the time they were entered, respondent later agreed with the advertising.

30. On or about October 31, 2016, respondent terminated Mosco's employment and changed the locks to the office suite due to her growing concerns about his alleged improprieties.

31. On or about April 21, 2017, Mosco filed suit against respondent.

32. Prior to filing an answer to the civil complaint, respondent sent a letter to Mosco's attorney, Steven LaBret, dated May 31, 2017. In this letter, respondent stated that if Mosco did not dismiss the lawsuit, respondent would establish that Mosco, his wife and a third party were involved in a criminal enterprise.

33. Respondent also stated in the letter that Mosco, while assisting her law firm, was responsible for misappropriating funds, for making erroneous reimbursements, and for causing checks and cash to go missing, including client checks.

34. Respondent further stated in her letter that she had not yet reported Mosco to the proper authorities.

35. Respondent later clarified that the allegedly misappropriated or missing checks were written to her by clients as fee payments, that the missing cash may have been for fee payments, and that no client funds were misappropriated.

36. Respondent did not have a trust account at the time and the only account to which Mosco had access was the law firm's operating

account, which respondent closed in order to prevent Mosco from further access to it.

37. Respondent did not demand Mosco surrender his law firm business cards in his possession at the time she terminated him.

38. Mosco used his law firm business card on at least one occasion after the lawsuit was filed, providing the business card to the manager of a local hotel and leading the manager to believe he was affiliated with respondent's law firm.

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

(a) 3-4.3 (1993) 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 to 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 Florida or outside the state of Florida, and whether or not the act is a felony or a misdemeanor, may constitute a cause for discipline.

(b) 4-3.4(g) A lawyer must not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.

(c) 4-5.3(b) With respect to a nonlawyer employed or retained by or associated with a lawyer or an authorized business entity as defined elsewhere in these Rules Regulating The Florida Bar: (1) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, must make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer; (2) a lawyer having direct supervisory authority over the nonlawyer must make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and (3) a lawyer is responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if the lawyer: (A) orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or (B) is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(d) 4-5.4(c) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(e) 4-5.4(e) A lawyer shall not practice with or in the form of a business entity authorized to practice law for a profit if: (1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration; or (2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or (3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

(f) 4-8.4(a) A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

(g) 4-8.6(c) No person may serve as a partner, manager, director or executive officer of an authorized business entity that is engaged in the practice of law in Florida unless such person is legally qualified to render legal services in this state. For purposes of this rule the term "executive officer" includes the president, vice-president, or any other officer who performs a policy-making function.

(h) 4-8.6(d) A lawyer who, while acting as a shareholder, member, officer, director, partner, proprietor, manager, agent, or employee of an authorized business entity and engaged in the practice of law in Florida, violates or sanctions the violation of the authorized business entity statutes or the Rules Regulating The Florida Bar will be subject to disciplinary action.

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



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CERTIFICATE OF SERVICE

I certify that this document has been e-filed with the Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, using the e-filing portal, and that a copy has been furnished by United States Mail via certified mail No. 7020 1810 0000 0813 3372, return receipt requested to Juan Carlos Arias, Counsel for Respondent, whose record bar address is 330 SW 12th Street, Fort Lauderdale, Florida 33315-1521, and via email at jarias@anl-law.com; and to Laura N. Gryb, Bar Counsel, The Florida Bar, via email at lgryb@floridabar.org, orlandooffice@floridabar.org, dsullivan@floridabar.org, on this 20th day of December 2022.



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 Laura N. Gryb, 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 lgryb@floridabar.org, orlandooffice@floridabar.org, and dsullivan@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 East Jefferson Street, Tallahassee, Florida 32399, 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.