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IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

THEOPHILOS JOHN KARAPHILLIS,

Respondent.

______________________________/

Supreme Court Case No. SC-

The Florida Bar File No. 2019-10,496 (06A) 2022-10,189 (06A)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, Theophilos John Karaphillis, and files this Conditional Guilty Plea 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 two Florida Bar disciplinary matters which has been assigned The Florida Bar File Nos. 2019-10,496 (06A) and 2022-10,189 (06A).

3. As to The Florida Bar File No. 2019-10,496 (06A) and 2022-10,189 (06A), there has been a finding of probable cause by the Grievance Committee.

4. Respondent is acting freely and voluntarily in this matter and tenders this Plea without fear or threat of coercion. Respondent is represented in this matter.

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

A. One year suspension;

B. Trust Accounting Workshop to be completed within 6 months of the date of the Supreme Court of Florida's order accepting this Conditional Guilty Plea for Consent Judgment and pay the $750.00 workshop fee prior to attendance; and

C. Payment of disciplinary proceeding costs.

6. 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 is effective 30 days from the date of the order or opinion so that respondent may close out the practice of law and protect the interest of existing clients.

7. As to The File No. 2019-10,496(6A), the following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. The Florida Bar received three notices of insufficient funds from Valley National Bank stating respondent's trust account had insufficient funds for items totaling approximately $965.00 and were presented to the bank for payment. The bar requested respondent provide trust account records for January through June of 2019, however respondent failed to maintain the required trust accounting records. Respondent's failure to provide complete trust account records resulted in the bar's inability to conduct a complete review of respondent's trust account records.

B. On November 30, 2021, during respondent's sworn statement to bar counsel, respondent testified that gambling contributed to his financial issues.

C. Respondent entered multiple agreements with various individuals who loaned him money, including with at least one client, Katherine Pehlman. Respondent testified, "Katherine Pehlman, I obviously borrowed money from…I guess Katherine was a client and that would have been – you know, my brother-in-law (Steve Poirier) was a client. I borrowed money from him, but he wasn't an ongoing client." Respondent acknowledged he had to seek unsecured loans through individuals rather than banks due to his bad credit. Respondent took advantage of individuals, including at least one current client, who would not require a review of his financial documents like a bank or other lending institution might. Respondent was putting his own personal funds, including the money loaned from individuals, in his trust account. Respondent testified the bank placed a restriction on his operating account, so he was transferring money into his trust account to use checks from the trust account. Respondent testified he was using his trust account to avoid this restriction. Respondent failed to maintain records to determine whether he was using his client's money in the trust account to pay his own personal expenses.

D. On September 30, 2021, respondent was served a subpoena that required him to appear on October 26, 2021 and produce all trust accounts records by October 14, 2021. Respondent failed to produce the requested documents in compliance with the subpoena. Respondent's sworn statement was ultimately rescheduled for November 30, 2021, and respondent provided a partial response to the bar that same day. Respondent failed to completely produce the requested documents to The Florida Bar.

E. Respondent does not claim to have any of the required trust account records required. Respondent testified he initially had someone keeping his records during a time period he did not provide, but once that person moved out of the office where he was located, respondent "...didn't have any formal records." During respondent's sworn statement bar counsel asked if respondent's trust accounting records were currently in compliance, and respondent said they probably were not. Respondent said he hired an accountant to help with IRS issues and bar records, but respondent has denied multiple requests for the bar to contact his accountant. During respondent's sworn statement he also stated he has not been compliant with filing his tax returns for the last five years but indicated that was one of the things he hired the accountant to complete.

F. By reasons of the foregoing, respondent has violated **Rule 3-4.3** (Misconduct and Minor Misconduct); **Rule 4-1.8(a)** (Conflict of Interest; Prohibited and Other Transactions – Business Transactions with or Acquiring Interest Adverse to Client); **Rule 4-1.15** (**Rule 4-8.4(a)** (Misconduct – 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); **Rule 4-8.4(d)** (Misconduct – engage in conduct in connection with the practice of law that is prejudicial to the administration of justice...); **Rule 4-8.4(g)** (failure to respond in writing to an official bar inquiry); **Rule 5-1.1(a)(1)** (Nature of Money or Property Entrusted to Attorney – Trust

Account Required; Location of Trust Account; Commingling Prohibited); **Rule 5-1.1(b)** (Application of Trust Funds or Property to Specific Purpose); **Rule 5-1.1(j)** – (Disbursement Against Uncollected Funds); **Rule 5-1.2(b)(2)** (Minimum Trust Accounting Records – deposit slips that clearly identify the date and source of all trust funds received and the client or matter for which the funds were received); **Rule 5-1.2(b)(3)(C)** (Minimum Trust Accounting Records – clearly identify the client or case by number or name in the memo area of the check); **Rule 5-1.2(b)(4)** (Minimum Trust Accounting Records – documentary support for all disbursements and transfers from the trust account including records of all electronic transfers from client trust accounts); **Rule 5-1.2(b)(6)** (Minimum Trust Accounting Records – a separate cash receipts and disbursements journal); **Rule 5-1.2(b)(7)** (Minimum Trust Accounting Records – a separate file or ledger with an individual card or page for each client or matter); **Rule 5-1.2(d)(1)(A)** (Minimum Trust Accounting Procedures – reconciliations of all trust bank or savings and loan association accounts); **Rule 5-1.2(d)(1)(B)** (Minimum Trust Accounting Procedures – a comparison between the total of the reconciled balances of all trust accounts); **Rule 5-1.2(d)(2)** (Minimum Trust

Accounting Procedures – prepare an annual detailed list identifying the balance of the unexpended trust money held for each client or matter); **Rule 5-1.2(d)(3)** (Minimum Trust Accounting Procedures – maintain reconciliations, comparisons, and listings, for at least 6 years); **Rule 5-1.2(f)** (Minimum Trust Accounting Procedures – maintain the records required by this chapter for 6 years after the final conclusion of each representation in which the trust funds or property were received)

8. As to The File No. 2019-10,189(6A), 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 August of 2016, Katherine Pehlman retained respondent to collect a debt from the estate of her deceased companion. The civil case was settled at mediation, and on March 29, 2018, respondent obtained two separate settlement checks in the amounts of $25,000.00 and $50,000.00 owed to Ms. Pehlman from the estate. On April 13, 2013, respondent disbursed Ms. Pehlman her $50,000.00 settlement check.

b. Respondent requested Ms. Pehlman loan him the other $25,000.00 check and that he would pay her back with interest. On

April 13, 2018, respondent entered the promissory note with Ms. Pehlman for $25,000.00. Respondent did not provide Ms. Pehlman the $25,000.00 prior to entering this loan with her. Prior to entering the loan, respondent did not notify Ms. Pehlman in writing that she would have an opportunity to seek the advice of an independent attorney for the transaction. On June 4, 2018, respondent's office filed the signed Satisfaction and then forwarded that service email to Ms. Pehlman notifying her that all of the work on her case was complete.

c. In April 2019, respondent asked to extend the loan due to his inability to repay the principal amount now due to Ms. Pehlman. Ms. Pehlman agreed to an extension of six months and a second promissory note was drawn with the same terms. Respondent would pay interest monthly, and $25,000.00 principal due in October of 2019. Respondent failed to pay Ms. Pehlman as he agreed to under the second promissory note. Ms. Pehlman retained another attorney to prepare a third loan with respondent. Respondent agreed to the conditions of the third promissory note with Ms. Pehlman. This third loan was a one-year note, interest only each month ($250.00), quarterly principal payments of $2,500.00, and the balloon

$15,000.00 due February 1, 2021. Respondent failed to make the agreed payments according to the third promissory note entered with Ms. Pehlman. Respondent is now in default with Ms. Pehlman according to the third promissory note.

d. Despite the signed Satisfaction and email, respondent testified he believed his representation of Ms. Pehlman was complete when he gave Ms. Pehlman "the check". Respondent was disingenuous in his testimony as to which check he gave Ms. Pehlman. After the sworn statement concluded respondent's counsel clarified that the $50,000.00 check was provided to Ms. Pehlman. Respondent testified he orally had conversations with Ms. Pelham about seeking advice for the loan, but Ms. Pehlman disputes this advice was provided.

e. On November 30, 2021, during respondent's sworn statement he was questioned about the day he borrowed the money from Ms. Pehlman, respondent stated, "It was at least, I want to say, a week later because I don't recall any discussion of – in fact, I'm sure we didn't have a discussion about borrowing the money when I gave her the money." However, in respondent's March 9, 2022, response to the bar, respondent stated that upon review of his records there was no evidence that he ever prepared a check for $25,000.00 for Ms. Pehlman. Respondent instead recalled that he and Ms. Pehlman had agreed that he would retain the funds from the $25,000.00 settlement rather than write a separate check.

f. Lastly, respondent failed to timely respond in writing to the bar's official inquiries as to both a January 13, 2022, request for additional information as well as the January 24, 2022, request for additional information, until March 9, 2022.

g. Respondent admits by reason of the foregoing, he has violated **Rule 4-1.8(a)** (Conflict of Interest; Prohibited and Other Transactions – Business Transactions With or Acquiring Interest Adverse to Client); **Rule 4-8.4(a)** (Misconduct – 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). **Rule 4-8.4(d)** (Misconduct – engage in conduct in connection with the practice of law that is prejudicial to the administration of justice...); **Rule 4-8.4(g)** (Misconduct – fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency...).

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

10. Respondent offers the following as mitigation:

9.32 (a) absence of a prior disciplinary record;

9.32 (c) personal or emotional problems;

9.32 (h) physical or mental disability or impairment;

9.32 (l) remorse.

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.

11. Respondent agrees to 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.

12. 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 $1,364.86. 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.

13. Respondent acknowledges the obligation to pay the costs of this proceeding 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 will reflect adversely on any other bar disciplinary matter in which respondent is involved.

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

Dated this 16th day of May, 2023.

Theophilos John Karaphillis,
Respondent
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Dated this 16th day of May, 2023.

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Dated this 19th day of May, 2023.

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