

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

Supreme Court Case  
No. SC24-1806

v.

The Florida Bar File  
No. 2023-30,703(07B)

ERIKA DANIELLE DE JESUS,  
Respondent.

\_\_\_\_\_ /

**REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT**

I. **SUMMARY OF PROCEEDINGS**

The undersigned was appointed as referee to conduct disciplinary proceedings under R. Regulating Fla. Bar 3-7.6 to preside over the proceedings in this case.

On December 17, 2024, The Florida Bar (the bar) filed its complaint against respondent in these proceedings. The Supreme Court of Florida entered an order on December 17, 2024, designating the Chief Judge of the Tenth Judicial Circuit of Florida to appoint a referee in this case. The Honorable James A. Yancey was appointed to serve as the referee on December 18, 2024.

Throughout these proceedings, the bar was represented by Bar Counsel Ashley Taylor Morrison. Respondent was represented by Barry William Rigby.

All of the pleadings, responses, exhibits received in evidence, and this report constitute the record in this case and are filed with the Supreme Court of Florida.

## II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during these proceedings was, a member of The Florida Bar, subject to the jurisdiction and Rules Regulating The Florida Bar adopted by the Supreme Court of Florida.

B. Narrative Summary Of Case. In accord with the consent judgment, I find the following facts:

1. At all times relevant to the instant matter, respondent was an employee and associate attorney of Orlando Law Group, PL (OLG).

2. At all times relevant to the instant matter, Attorney Jennifer Englert was Manager and Registered Agent of OLG.

3. At all times relevant to the instant matter, Attorney Jeffrey Smith was an employee and associate attorney of OLG.

4. In or around 2019, Mr. Smith of OLG, assisted a client, Ms. Yvonne Tania Simon, in drafting her Last Will and Testament which named the managing partner and respondent's supervisor, Ms. Englert, as the Personal Representative (PR) of Ms. Simon's estate.

5. As part of her employment with OLG, respondent acted as a witness to Ms. Simon's Last Will and Testament that was executed on August 30, 2019.

6. On March 26, 2021, Ms. Simon passed away owning real property in Orlando, Florida, which was the decedent's home and the estate's largest asset.

7. On June 10, 2021, Ms. Englert was appointed as PR for the Estate of Yvonne Tania Simon, in Case No. 48-2021-CP-1837, in the Circuit Court of the Ninth Judicial Circuit, in and for Orange County, Florida. Mr. Smith served as counsel of record for the PR. Respondent, however, was not a party to the probate proceeding.

8. Ms. Englert did not list the property on the Multiple Listing Service (MLS) or on any other real estate listing sites and instead initiated a discussion with respondent, whom Ms. Englert supervised, regarding purchasing the real property.

9. Ms. Englert advised respondent that she would sell the property for \$295,000.00 and respondent accepted.

10. Ms. Englert used Apiary Title and HIVE Commercial Realty, companies in which she held a 50 percent ownership interest, to broker the sale of the home.

11. On September 10, 2021, Ms. Englert, through counsel, petitioned the court for permission to sell the property to respondent and respondent's husband pursuant to a contract for sale executed August 25, 2021, for \$295,000.00. Respondent, who was not a party to the probate proceeding, did not disclose her employment relationship with OLG to the trial court or to the beneficiaries, nor was the relationship disclosed by Ms. Englert.

12. The presiding judge, the Honorable Alice Blackwell, now retired, denied the petition without prejudice, and required that the beneficiaries consent to the sale or be served with formal notice of the petition. Two days later, in response to the denial, Ms. Englert's counsel sent correspondence to the court advising the court that the beneficiaries had all signed Joinder, Waiver and Consent forms that had been e-filed with the court on June 9, 2021, and inquired as to whether the Joinder, Waiver and Consent forms signed by each beneficiary satisfied the court's prior notice of sale requirement. Without a hearing, the court then issued an order authorizing the sale.

13. However, each Joinder, Waiver and Consent specifically stated that the beneficiary "acknowledges receipt of a copy of the Petition for Administration, joins in said petition, waives hearing and notice of a

hearing thereon, and consents to the entry of an order granting the relief requested in the petition.”

14. The Petition for Administration made no express mention of the sale of the property. However, under the terms of the decedent’s will the PR was granted the general power to sell real estate.

15. The beneficiaries first learned of the sale after the order authorizing the sale was entered and moved to have Ms. Englert removed as PR and to vacate the sale.

16. On March 9, 2022, and April 27, 2022, an evidentiary hearing was held on the petition for removal of Ms. Englert as PR.

17. Following the hearing, in an order dated June 11, 2022, the court found that the PR created a presumptive conflict of interest and breached her fiduciary duty to the estate and its beneficiaries. The court vacated the sale of the home and removed Ms. Englert as PR. The court also ordered that the home be vacated and returned to the estate within 45 days.

18. In its order, the court found that respondent “... also bears an ethical responsibility for the failure to disclose the relationship of employee/employer to the court, the beneficiaries, and other interested

persons. As a result, it is equitable for the ultimate penalty of voiding the sale to be imposed by the court in this situation.”

19. Ms. Englert appealed the order to the Sixth District Court of Appeal. On June 6, 2023, the appellate court affirmed the trial court.

20. Upon becoming aware of the outcome of the appeal, respondent continued to reside in the home. Respondent and her husband were still obligated to make mortgage payments. The beneficiaries, through counsel, then filed a Petition for Order of Ejectment and Writ of Possession. The probate proceeding remains pending.

### III. RECOMMENDATIONS AS TO GUILT

In accord with the consent judgment, I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar: 3-4.3 Misconduct and Minor Misconduct; 4-1.8(a) Business Transactions with or Acquiring Interest Adverse to Client; 4-8.4(a) Misconduct – violate or attempt to violate the Rules of Professional Conduct; and 4-8.4(d) Misconduct – conduct in connection with the practice of law that is prejudicial to the administration of justice.

In accord with the consent judgment, the bar agrees to dismiss the following alleged rule violation, and I therefore recommend the dismissal of the following: 4-8.4(c) Misconduct.

#### IV. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Before recommending discipline under R. Regulating Fla. Bar 3-7.6(m)(2)(D), I considered the following personal history of the respondent:

Age: 35

Date admitted to the Bar: September 21, 2018

Prior Discipline: None.

#### V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Florida Standards for Imposing Lawyer Sanctions before recommending discipline:

##### 4.3(c) Failure to Avoid Conflicts of Interest

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.

##### 7.1(c) Deceptive Conduct or Statements and Unreasonable or Improper Fees

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.

I find the following aggravating factors: multiple offenses [Florida's Standards for Imposing Lawyer Sanctions 3.2(b)(4)].

I find the following mitigating factors: an absence of a prior disciplinary record [Florida's Standards for Imposing Lawyer Sanctions 3.3(b)(1)]; a full and free disclosure to the bar or cooperative attitude toward the proceedings [3.3(b)(5)]; inexperience in the practice of law; [3.3(b)(6)]; imposition of other penalties or sanctions [3.3(b)(11)]; and remorse [3.3(b)(12)].

## VI. CASE LAW

I considered the following case law before recommending discipline:

In The Florida Bar v. Kamilar, 367 So. 3d 1177 (Fla. 2023), pursuant to a consent judgment, respondent received a public reprimand with attendance at Ethics School for engaging in a conflict of interest.

Respondent was retained by a law firm to represent the firm's attorneys in bar proceedings. Respondent later sent an email which threatened legal action against one of the firm's former attorneys whom respondent still represented in pending bar matters. Respondent contacted the attorney at the request of the law firm due to the attorney's alleged noncompliance with the terms of a separation agreement which respondent drafted.

Respondent later withdrew from the attorney's pending bar matters.

In The Florida Bar v. Oliveira, 2020 WL 1061267 (Fla. Mar. 5, 2020), the Court publicly reprimanded respondent by publication and ordered his attendance at Ethics School. Respondent engaged in a conflict of interest and failed to provide proper communication to a client regarding a business agreement and foreclosure matter. Respondent became involved in representing a client in a foreclosure case, at the request of another attorney with whom respondent had a professional relationship. Respondent 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. Respondent met briefly with the client to explain a proposed business agreement between the client and the referring attorney. After the client entered into the business arrangement with the referring attorney's business entity, respondent then began representing the referring attorney's business entity in the client's foreclosure case. Respondent failed to obtain written conflict of interest waivers from the parties.

In The Florida Bar v. Welton, 2020 WL 256577 (Fla. Jan. 16, 2020), the Court publicly reprimanded respondent and imposed a one-year period

of probation with Ethics School for engaging in a conflict of interest. A husband and wife hired respondent to represent them in a probate matter regarding the estate of the wife's mother. Prior to the initiation of estate proceedings, the wife had numerous disputes with her brother about the division of the estate assets, including real property. Respondent persuaded the wife to serve as co-personal representative along with her brother and recommended a joint representation despite their adverse interests. Respondent prepared a waiver of conflict of interest that the brother signed but obtained no written waivers from his other clients, the husband and wife. Additionally, respondent failed to address other issues in the estate which were against his clients' interests and did not follow his clients' direction regarding the disposition of the real property. Respondent had no prior discipline.

In The Florida Bar v. Burtoff, 2018 WL 2446906 (Fla. May 31, 2018), the Court publicly reprimanded respondent and required that he attend Ethics School. In 2004, respondent agreed to draft certain estate planning documents for his mother-in-law and father-in-law. He drafted two trusts and mirror wills for the couple. The couple each had adult children from previous marriages and pursuant to the trust at the death of one of the settlors, that settlor's children would be entitled to a portion of the trust

assets. An earlier trust, which respondent had not drafted, contained similar terms. At the death of his mother-in-law in 2012, a dispute arose regarding the trust document including the intent of the settlors. Respondent undertook the representation of his wife, the personal representative of his mother-in-law's estate, and on her behalf filed suit against his father-in-law, his former client. Respondent took positions contrary to his former client, his father-in-law, and continued to represent his wife in the probate matter. The probate court eventually disqualified respondent as counsel for the personal representative.

In The Florida Bar v. McGough, 2017 WL 4053880 (Fla. Sept. 14, 2017), the Court directed that respondent receive a public reprimand to be administered by the Board of Governors. Respondent was also required to attend Ethics school and Professionalism Workshop as well as complete 10 additional CLE credits during the current reporting cycle. Respondent engaged in a conflict of interest in the dual representation of the O'Connors by drafting their revised estate planning documents which conflicted with their prenuptial agreement. Respondent also failed to advise them to seek the advice of independent counsel concerning the proposed changes and to obtain a written waiver of conflict.

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

Pursuant to the consent judgment, I recommend that the respondent be found guilty of misconduct justifying disciplinary measures and be disciplined by:

a. Public reprimand, to be administered in writing by the referee within 30 days of the Court's order approving this consent judgment, and to be published in the *Southern Reporter*.

b. Respondent must attend Ethics School and Professionalism Workshop, in person where scheduled by the bar within six months of the order approving this consent judgment, and pay associated fees totaling \$1,000.00 before attendance.

c. Completion of Continuing Legal Education Course: *Annual Ethics & Professionalism: Scary Tales of Unprofessional & Unethical Conduct* (Course No. 7844). This continuing legal education program is in addition to the continuing legal education requirements for Florida Bar members under Chapter 6 of the Rules Regulating The Florida Bar. Should this course no longer be offered, respondent agrees to take an equivalent course approved by The Florida Bar prior to registering for the course. Within six months from the date of the Supreme Court of Florida's order

approving this consent judgment, respondent will submit an affidavit of completion of the continuing legal education program to the Lawyer Regulation, Headquarters, 651 E. Jefferson Street, Tallahassee, Florida 32399.

d. Payment of the bar's disciplinary costs.

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
Court Reporters Fees	\$401.82
TOTAL	\$1,651.82

I recommend that the above costs be charged to respondent and that interest accrue at the statutory rate. If respondent does not satisfy the cost judgment within 30 days of the judgment becoming final, respondent will be delinquent and ineligible to practice law under R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 30<sup>th</sup> day of July, 2025.

/s/ James Alan Yancey  
JAMES ALAN YANCEY, Referee

Filed with the Supreme Court of Florida via the Florida Courts E-Filing Portal with copies served via the Portal to:

Ashley Taylor Morrison, Bar Counsel, The Florida Bar,  
[amorrison@floridabar.org](mailto:amorrison@floridabar.org), [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org),  
[ndejesus@floridabar.org](mailto:ndejesus@floridabar.org)

Patricia Ann Toro Savitz, Staff Counsel, [psavitz@floridabar.org](mailto:psavitz@floridabar.org)

Barry William Rigby, Counsel for Respondent, [barryrigbylaw@gmail.com](mailto:barryrigbylaw@gmail.com)