

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

JOSEPH P. GEORGE JR.,
Respondent.

Supreme Court Case
No. SC23-1726

The Florida Bar File
No. 2022-70,497 (11M)

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 December 15, 2023, The Florida Bar filed its complaint against respondent in these proceedings. All 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,

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

B. Narrative Summary Of Case.

In July 2021, the Department of Children and Families received a self-neglect report for Larry Larsen and Nancy Crooks. The elderly couple lived in terrible, dangerous conditions and were involuntarily removed from their home and Baker acted. Adult protective services assumed responsibility and placed Mr. Larsen and Ms. Crooks in Merceditas Home Care. On August 11, 2021, the couple's best friend, Zola Mae Blakeslee, retained respondent on behalf of Mr. Larsen and Ms. Crooks. Prior to his appointment, respondent had no personal or professional relationship with Ms. Crooks and Mr. Larsen.

Upon being retained, respondent filed a notice of appearance, and days later he was designated as the responsible party that would act in conjunction with DCF's protective services. On August 27, 2021, respondent was delegated durable power of attorney by Mr. Larsen and Ms. Crooks. As part of respondent's representation and efforts on behalf of the elderly couple, he became responsible for their day-to-day care. For example, in September 2021, respondent was able to arrange the transfer of his clients to a superior assisted living facility, Palace Gardens, on behalf

of his clients. In addition, respondent became responsible for their financial oversight because the couple was having difficulty keeping up with and handling their personal finances. Respondent was tasked with assisting the parties with their finances. Shortly after arriving at Palace Gardens, Mr. Larsen attempted suicide. As a result, Mr. Larsen was Baker acted once more.

Mr. Larsen and Ms. Crooks held a joint bank account with American Century Investments (ACI) in Kansas City, Mo. On October 18, 2021, respondent filed a Motion to Dismiss, as the conditions outlined in the court's August 19, 2021 order, allowing for the discontinuation of adult protective services, were fulfilled.

Following the discontinuation of adult protective services, respondent agreed to continue his representation of Mr. Larsen and Ms. Crooks through further designation as Agent under Power of Attorney. The court granted the motion one day later. Afterward, as part of respondent's financial oversight of the couple, Ms. Crooks and Mr. Larsen's joint bank account address was updated to respondent's office address, which was 9665 S. Dixie Highway #112, Pinecrest, FL 33156, and respondent began receiving ACI's mailed account statements.

In October 2021, respondent assisted Ms. Crooks and Mr. Larsen with their estate planning. During that process, respondent raised to Ms. Crooks the risk that funds in the ACI account would escheat to the State of Florida. Ms. Crooks indicated that respondent should be identified as the transfer on death beneficiary. Although respondent did not suggest he be named as a beneficiary, he did not decline the designation either nor counsel his clients that same resulted in a conflict of interest.

Ms. Crooks' best friend, Zola Mae Blakeslee, confirmed in a Sworn Statement that, from the time respondent was retained in August 2021 and through and including the time he was assisting the couple with their estate planning in October 2021, based upon her daily conversations with Ms. Crooks, she believed that the couple knew what they were doing and any documents they signed would have been done willingly, without duress, and with the ability to understanding what they signed. Nevertheless, respondent should have declined the beneficiary designation.

Shortly thereafter, ACI received a beneficiary designation, signed by Ms. Crooks and Mr. Larsen, naming respondent as the sole beneficiary of the joint bank account. Notably, the form did not identify respondent as their attorney. It identified him as their friend.

As ACI's staff reviewed the paperwork, they took note of the beneficiary designation, identifying him as a "friend" and sole beneficiary of an account which had a value in excess of \$2 million. Shortly thereafter DCF received an exploitation report regarding respondent's clients. During the DCF investigation, it became clear that the couple was suffering from cognitive decline. Respondent, in a pleading in the underlying case, acknowledged that his clients knew their "memories were far from perfect." Additionally, their physician confirmed that neither Mr. Larsen nor Ms. Crooks could handle their personal affairs and that they both required supervision in their daily lives. Thereafter, respondent was discharged by the court and another attorney was appointed. The ACI form designation to respondent was ultimately revoked. Subsequently, the court ruled that Mr. Larsen and Ms. Crooks lacked capacity to consent to adult protective services.

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar:

Rules 4-1.8(c) (Gifts to Lawyer or Lawyer's Family); 4-1.14 (Client Under a Disability); 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and 4-8.4(d) (A

lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic).

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.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

4.3 Failure to Avoid Conflicts of Interest

(b) Suspension. Suspension is appropriate when a lawyer knows of a conflict of interest, does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client.

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.

I find these standards to be applicable in the instant case based upon the admissions tendered in respondent's Conditional Guilty Plea for Consent Judgment.

In recommending discipline, I also considered the following mitigating factors, as reflected in section 3.3(b) of Florida's Standards for Imposing Lawyer Sanctions:

- (1) Absence of a prior disciplinary record;
- (2) Full and free disclosure to the bar and cooperative attitude toward the proceedings; and
- (3) Remorse

In recommending discipline, I also considered the following aggravating factors, as reflected in section 3.2(b) of Florida's Standards for Imposing Lawyer Sanctions:

- (2) dishonest or selfish motive;

(8) vulnerability of the victim; and

(9) substantial experience in the practice of law.

V. CASELAW

I considered the following case law prior to recommending discipline:

In *The Florida Bar v. O'Connell*, Supreme Court Case No. SC22-699 (Fla. 2023) respondent entered into a consent judgement with the bar, which led to a one-year suspension. Respondent represented a client who had a trust. The trust provided that the bulk of the client's estate would be left to charity. Respondent was instructed to choose the two charities. As respondent's client's mental and physical health deteriorated, respondent was tasked with overseeing her care. Following the client's death, the respondent's law firm sold the client's apartment, which was the primary asset, for \$538,342.73. The respondent withdrew nearly all of the funds from the account and used the monies for personal purposes. After a paralegal at respondent's firm questioned the withdrawals, the law firm investigated. Respondent represented that the trust permitted him to borrow funds and that it was his intention to pay the money back, which he later did with interest. However, respondent never advised his client to seek independent counsel to advise as to the provision he believed allowed

him to borrow funds for his personal use. Additionally, the respondent made charitable donations to an entity on behalf of his client, but said it was on his behalf and claimed it as a deduction on his tax return.

Respondent was suspended for one year for these actions.

In *The Florida Bar v. Petersen*, 248 So. 3d 1069 (Fla. 2018), respondent's contingency fee agreement and addendum at issue in the grievance stated that a 15 percent contingency fee was to be calculated based on the client's total recovery in case settlement, including both their monetary recovery and their non-monetary recovery in the form of intellectual property rights to the cigarette brand. The fee agreement further stated that respondent would acquire a 15 percent ownership interest in that cigarette brand, and that ownership would revert to the client if/when the attorney's fee reaches its \$5 million cap. Respondent was found to have violated the Rule prohibiting an attorney from acquiring a pecuniary interest adverse to his client without ensuring that the transaction was fully disclosed and fair to the client, and that the client be given opportunity to seek independent legal advice. The court noted that respondent had substantial experience in the practice law. Respondent was suspended for three years.

In *The Florida Bar v. Swann*, 116 So. 3d 1225 (Fla. 2013), respondent's girlfriend was romantically involved with the client, and respondent knew it. Respondent's girlfriend convinced the client to transfer his home and nursery property to respondent and his girlfriend. The court found that respondent aided her in this endeavor. Respondent was found to have violated the Rule prohibiting an attorney from acquiring a pecuniary interest adverse to his client without ensuring that the transaction was fully disclosed and fair to the client, and that the client be given opportunity to seek independent legal advice. The court noted that Respondent had substantial experience in the practice of law. Respondent was disbarred.

In *The Florida Bar v. Rodriguez*, 959 So. 2d 150 (Fla. 2007). In the middle of litigation, Respondent entered into a secret engagement agreement with the opposing party, agreeing not to bring future cases against them. Respondent did not disclose this conflict of interest to his clients, exposing them to potential harm. Respondent was suspended for two years.

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. Suspension for a period of three (3) years.

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: 69 Years Old

Date admitted to the Bar: April 04, 1994

Prior Discipline: None.

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 Rule 3-7.6(q)(1)(1)	\$1,250.00
--	------------

TOTAL	\$1,250.00
-------	------------

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 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 18 day of June 2024.

A handwritten signature in black ink, appearing to read 'W.L. Thomas', written over a horizontal line.

Honorable William L. Thomas, Referee
Dade County Courthouse
73 West Flagler Street, Room. 1307
Miami, Florida 33130

Original To:

Clerk of the Supreme Court of Florida

Conformed Copies to:

David Bill Rothman, Attorney for Respondent, dbr@rothmanlawyers.com

Alex Diaz, Attorney for Respondent, DiazA@KleinPark.com

Rita Florez, Bar Counsel, rflorez@floridabar.org

Patricia Ann Toro Savitz, Staff Counsel, psavitz@floridabar.org