

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

DANIELLE JUSTINE BUTLER,

Respondent.

Supreme Court Case No.
SC2021-0738

The Florida Bar File Nos.
2021-50,633(17B)FFC
2019-50,409(17B)

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AMENDED 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 May 19, 2021, The Florida Bar filed a Notice of Determination or Judgment of Guilt and thereafter on May 19, 2021, in Case No. SC2021-738, the Court issued an order suspending respondent from the practice of law effective thirty days from the entry of the May 19, 2021 order. On May 20, 2021, the Chief Judge of the Fifteenth Judicial Circuit of Florida appointed the undersigned to serve as the referee in these proceedings. On May 3, 2021, respondent entered a plea of no contest to one count of Grand Theft in the Third Degree, adjudication was withheld, and she was

sentenced to one year of probation, in Broward County, FL Case No. 21-1493CF10A. On December 3, 2021, the court entered an order granting respondent's motion to vacate her plea to the grand theft charge, the court stated, "[B]ased on the tremendous personal physical and medical issues of the Defendant, the Defendant's traumatic and stressful family issues, and most significantly, the Defendant's lengthy mental health history, and this Court finds that the Defendant's No Contest plea was not knowingly and voluntarily entered into." The plea agreement in the criminal case was the basis for the suspension of respondent's license to practice law. On February 8, 2022, the parties filed a Joint Petition to Vacate Felony Suspension with Modification to Interim Probation and Stay Pending Disposition of Criminal Case and on March 8, 2022 the Court approved the report of referee which recommended that the joint petition to vacate felony suspension be approved. Respondent's suspension was almost 9 months in duration. Under the May 19, 2021 felony suspension order, respondent was suspended from the practice of law from June 18, 2021 until the Court vacated the felony suspension on March 8, 2022. On March 8, 2022, respondent was placed on interim probation until the disposition of Broward County, FL Case No. 21-1493CF10A. On July 28, 2023, a disposition was

entered in respondent's criminal case, Broward County, FL Case No. 21-1493CF10A. On August 17, 2023, the Court lifted the stay in these bar proceedings.

On April 17, 2024, the undersigned filed a Report of Referee recommending that the Court approve respondent's conditional guilty plea for consent judgment. On June 17, 2024, the Court disapproved of the Report of Referee, the conditional guilty plea for consent judgment, and the stipulation for consent judgment, sought additional facts, and referred this matter back to the referee for further proceedings.

Thereafter, the parties presented an Amended Conditional Guilty Plea for Consent Judgment for Discipline. Respondent has waived her right to a probable cause finding by the grievance committee as to The Florida Bar File Nos. 2021-50,633(17B)FFC and 2019-50,409(17B) and consents to these files being included in the instant proceeding. I recommend that respondent's Amended Conditional Guilty Plea for Consent Judgment be approved, for the reasons set forth herein. 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.

Counsel for Respondent – Brian Lee Tannebaum.

Bar Counsel – Joi L. Pearsall.

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.

1. As to The Florida Bar File No. 2021-50,633(17B) -

On July 28, 2023, in Broward County, FL Case No. 21-1493CF10A, respondent entered a plea of no contest to a misdemeanor charge of Obstruction of Justice, adjudication was withheld, and respondent was sentenced to 12 months of administrative probation. On January 24, 2024, the court granted respondent's unopposed motion for early termination of probation. When the criminal court matter commenced in February of 2021, respondent was charged with Grand Theft in the Third Degree (felony), and it was alleged that respondent sent client Nicholas Loeb a request for

reimbursement for costs and expenses, where the costs invoices respondent's firm sent to the client erroneously attributed higher costs to third-party entities than the charges that were listed on the invoices that the client received directly from those same third-party entities. Mr. Loeb did not pay the erroneous invoice and he disputed those charges with respondent's firm. At no time was respondent or her law firm unjustly enriched as Mr. Loeb did not pay the erroneous invoice. On May 3, 2021, respondent entered a plea of no contest to one count of Grand Theft in the Third Degree, adjudication was withheld, and she was sentenced to one year of probation. On or about May 28, 2021, respondent's criminal defense counsel filed a motion to vacate respondent's plea to the grand theft charge. On September 3, 2021, the court held a hearing on respondent's motion to vacate her May 3, 2021 plea. In its December 3, 2021 order granting respondent's motion to vacate her plea to the grand theft charge, the court stated, "[B]ased on the tremendous personal physical and medical issues of the Defendant, the

Defendant's traumatic and stressful family issues, and most significantly, the Defendant's lengthy mental health history, and this Court finds that the Defendant's No Contest plea was not knowingly and voluntarily entered into."

Subsequently, on July 28, 2023, the state reduced the grand theft charge against respondent to the misdemeanor charge of obstruction of justice, and the court accepted respondent's no contest plea to obstruction of justice. Respondent's conduct as described above violated R. Regulating Fla. Bar: 3-4.3 (commission by a lawyer of any act that is unlawful or contrary to honesty and justice).

2. As to The Florida Bar File No. 2019-50,409(17B) -

Respondent was hired by Nicholas Loeb (hereinafter referred to as "the client") for legal representation for the purchase, registration, and legal management of a motor vessel. Respondent charged a flat fee and requested a cost retainer. The client paid the flat fee in full. The client also paid a \$10,000.00 cost retainer. After the closing, the client received an invoice from respondent's law firm requesting

reimbursement from the client in the amount of \$8,797.00 for costs and expenses. However, the invoice that respondent's firm sent to the client attributed higher costs to third-party entities than the charges that were listed on the invoices that the client received directly from those same third-party entities. The client contacted respondent and disputed the additional charges, and respondent subsequently acknowledged the invoice that her firm sent to the client requesting reimbursement was inaccurate and reflected higher costs than were actually incurred by respondent's firm during her representation of the client. The respondent did not receive any additional funds from the client based on the incorrect invoice. Respondent reports that the actual costs paid as part of the client's transaction was \$11,401.31, and not \$18,797.00 as listed on the invoice that her firm sent to the client. Respondent attributes the inconsistencies in her firm's cost invoices to an accounting error and an administrative oversight. Respondent's conduct as described

above violated R. Regulating Fla. Bar: 4-1.5(a) (illegal, prohibited, or clearly excessive fees and costs).

III. RECOMMENDATIONS AS TO GUILT

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

As to SC2021-738 (The Florida Bar File No. 2021-50,633(17B)FFC), I recommend that respondent be found guilty of violating the following R. Regulating Fla. Bar: Rule 3-4.3 (commission by a lawyer of any act that is unlawful or contrary to honesty and justice).

As to The Florida Bar File No. 2019-50,409(17B), I recommend that respondent be found guilty of violating the following R. Regulating Fla. Bar: Rule 4-1.5(a) (illegal, prohibited, or clearly excessive fees and costs).

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

700 Violations of Other Duties Owed As A Professional

7.1 Deceptive Conduct or Statements and Unreasonable or Improper Fees

7.1(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.

V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Stover, 2023 WL 8110943 (Fla. Nov. 22, 2023)

(Unpublished Disposition), the lawyer was suspended for 60 days, by consent judgment, after being caught in an undercover drug sting asking for and receiving a controlled substance (60 Adderall tablets) in exchange for providing legal services to a potential criminal client. The lawyer was permitted by the State Attorney's Office to enter a diversion program and his successful completion of the diversion program resulted in the dismissal of the criminal charges.

The Florida Bar v. Ellis, 163 So. 3d 514 (Fla. 2015) (Table Citation)

(Unpublished Disposition), the Court approved a consent judgment for a public reprimand before the referee and three years of probation conditioned on participation in Florida Lawyers Assistance (FLA, Inc.) with quarterly reports. The lawyer had three separate cases involving criminal/personal misbehavior. The first case related to his involvement in a

domestic violence matter, he pled no contest to charges of Assault and Harassment, was adjudicated guilty, and after he successfully complied with the terms of his criminal probation, that case was dismissed. In the second case, the lawyer downloaded the photo of a female attorney and altered it into a lewd photograph, and he showed the altered photo to other attorneys at a social gathering, including to the female attorney who was the subject of the photo. The attorney later wrote a letter of apology to the female attorney after her supervisor reported the incident to the bar. In the third case, after he was arrested for Disturbing the Peace, a misdemeanor, following a noise complaint by a neighbor, the lawyer entered into a deferred prosecution agreement, wrote a letter of apology to his neighbor and the case was nolle prossed.

The Florida Bar v. Kavanaugh, 915 So. 2d 89 (Fla. 2005). The Court approved the referee's recommendation that an attorney, who collected a fee that was more than the percentage of the recovery that he was entitled to under a contingency fee agreement and failed to get court approval before collecting the increased fee was guilty of violating R. Regulating Fla. Bar 4-1.5(a). The Court imposed a public reprimand, and the attorney was ordered to pay restitution to the client.

The Florida Bar v. Bartholf, 775 So. 2d 957 (Fla. 2000). The Court approved the referee's recommendation that an attorney, who pled guilty to the misdemeanor charge of battery after he assaulted an individual with a golf cart and golf club at a golf course had violated R. Regulating Fla. Bar 3-4.3 (commission by a lawyer of any act that is unlawful or contrary to honesty and justice) and 4-8.4(b) (criminal act). The Court imposed a public reprimand and one-year of probation against an attorney.

The Florida Bar v. Dunagan, 565 So. 2d 1327 (Fla. 1990). The Court approved the referee's recommendation that a 60-day suspension be imposed against an attorney, who represented clients at a loan closing but failed to obtain his clients' consent before he deducted his past due legal fees from the clients' loan proceeds, failed to inform the clients that he would charge interest on past due legal fees, and also charged his clients interest in excess of the statutory limit.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that respondent be found guilty of misconduct justifying disciplinary measures, and that she be disciplined by:

- (a) Suspension from the practice of law for thirty days, nunc pro tunc to June 18, 2021, the effective date of her felony suspension in *The Florida Bar v. Danielle Justine Butler*, Case No. SC2021-0738, effective

immediately on entry of the Supreme Court of Florida's order approving this consent judgment.

A. On entry of the Court's order, respondent must immediately:

1. provide a copy of the suspension order to all courts, tribunals, or adjudicative agencies before which respondent is counsel of record; all state, federal, or administrative bars of which respondent is a member; all clients; all co-counsel; and all opposing counsel, as required by Rule 3-5.1(h);

B. Within 30 days from the date of the Court's order, respondent must provide the bar's headquarters office in Tallahassee with an affidavit listing all of the following that respondent notified of the suspension order: all courts, tribunals, or adjudicative agencies of which respondent is a member; all state, federal, or administrative bars of which respondent is a member; all clients; all co-counsel; and all opposing counsel.

C. Respondent must fully comply with Rule Regulating The Florida Bar 3-5.1(h).

D. Respondent must also fully comply with Rule Regulating The Florida Bar 3-6.1, if applicable.

(b) Respondent must complete the following continuing legal education course at respondent's own expense within 30 days of the Supreme Court of Florida's order approving the consent judgment:

Course Title - Avoiding Fee Disputes, Disgorgement and Discipline
(on-line seminar offered by The Florida Bar)

Credit Hours – [1.0]

Credit Expiration Date: [available for 90 days after registration]

Course Number: [8436]

Respondent must pay the cost of the above continuing legal education course directly to the continuing legal education provider.

Respondent may not use the above continuing legal education courses to comply with respondent's continuing legal education requirements under the Rules Regulating The Florida Bar.

Should this course no longer be offered, respondent agrees to take equivalent course approved by The Florida Bar prior to registering for the course.

Respondent will submit an affidavit of completion to the Lawyer Regulation, Headquarters, 651 E. Jefferson Street, Tallahassee, Florida 32399.

(c) Respondent must undergo an office procedures and record-keeping analysis by The Florida Bar's Diversion/Discipline Consultation Service. Respondent must contact Diversion/Discipline Consultation Service staff within 30 days from the date of the Supreme Court of Florida's order approving this consent judgment to schedule a review of respondent's law office procedures, equipment, staffing, business practices and trust accounting procedures and must participate in as many reviews and interviews the Diversion/Discipline Consultation Service requires. Respondent agrees to pay all fees of the Diversion/Discipline Consultation Service, which are based on the size of the firm and include travel expenses, totaling \$2,000.00. Respondent must fully comply with and implement all of the Diversion/Discipline Consultation Service recommendations at respondent's sole expense. Diversion/Discipline Consultation Service staff will conduct a final review, which may involve an additional cost to respondent. This final review will confirm compliance with, and implementation of, the recommendations of Diversion/Discipline Consultation Service staff. The Diversion/Discipline Consultation Service staff will provide the Lawyer Regulation Department of The Florida Bar with status reports on its analysis and respondent's implementation of its recommendations.

(d) Respondent must attend the Ethics School, in person, where scheduled by the bar within 6 months of the order approving this consent judgment and pay associated fees totaling \$750.00 before attendance.

(e) Payment of the bar's discipline costs.

VII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(2)(D), I considered the following personal history of respondent, to wit:

Age: 50

Date admitted to the Bar: October 1, 2001

Prior Discipline: Respondent was placed on interim probation in SC2021-738, on March 8, 2022 while her criminal case was pending, after the Court vacated the felony suspension on March 8, 2022. Thereafter, on July 28, 2023, respondent entered a plea of no contest to a misdemeanor charge of Obstruction of Justice, in Broward County, FL Case No. 21-1493CF10A, and the Court lifted the stay in the proceedings before the referee in Case No. SC2021-0738 on August 17, 2023.

3.3 Mitigating Factors:

A. 3.3(b)(5) full and free disclosure to the bar or cooperative attitude toward the proceedings; Respondent also provided status reports to the bar during her interim probation.

B. 3.3(b)(3) personal or emotional problems;

C. 3.3(b)(10) interim rehabilitation. Respondent has been under the care of a therapist.

D. 3.3(b)(11) imposition of other penalties or sanctions. In Florida Supreme Court Case No. SC2021-738, on May 19, 2021, The Florida Bar filed a Notice of Determination or Judgment of Guilt pursuant to Rule Regulating Fla. Bar 3-7.2(f), after respondent entered a plea of no contest on May 3, 2021 to the felony charge of Grand Theft in the Third Degree, in Broward County, FL Case No. 21-1493CF10A. On May 19, 2021, the Court suspended respondent from the practice of law, based on the Notice of Determination or Judgment of Guilt, and respondent's suspension became effective on June 18, 2021. On March 8, 2022, the Court issued an order which reinstated respondent to the practice of law and immediately placed respondent on interim probation until the disposition of Broward County, FL Case No. 21-1493CF10A. On July 28, 2023, in Broward County, FL Case No. 21-1493CF10A, respondent entered a plea of no contest to a misdemeanor charge of Obstruction of Justice, adjudication was withheld, and respondent was sentenced to 12 months of administrative probation. Thereafter, on August 17, 2023, the Court in Case No. SC2021-0738, lifted the stay in the proceedings before the referee.

E. 3.3(b)(12) remorse.

3.2 Aggravating Factors:

3.2(b)(1) prior disciplinary offense. In Florida Supreme Court Case No. 2021-738, on March 8, 2022, respondent was placed on interim probation while her criminal case, Broward County, FL Case No. 21-1493CF10A was pending.

3.2(b)(9) substantial experience in the practice of law.

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
Auditors Costs	\$280.00
Investigative Costs	\$33.00
Court Reporter Costs	\$1,697.70
TOTAL	\$3,260.70

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 16th day of December 2024.


12/16/2024
Karen M. Miller Circuit Judge

12/16/2024
Karen M. Miller
Circuit Judge

Hon. Karen M. Miller, Referee
Palm Beach County Courthouse
205 N. Dixie Hwy.
West Palm Beach, FL 33401-4522

Original To:

Clerk of the Supreme Court of Florida; Supreme Court Building; 500 South Duval Street, Tallahassee, Florida, 32399-1927

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