

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

Supreme Court Case  
No. SC22-1372

v.

The Florida Bar File  
No. 2020-30,709(4B)

A. MARIE DELAPENA,  
Respondent.

JUN 13 2023

Received, Clerk, Supreme Court

**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 October 14, 2022, The Florida Bar filed its Complaint against respondent as well as its Request for Admissions in these proceedings. 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.

On June 8, 2023, the parties submitted a Conditional Guilty Plea for Consent Judgment.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at certain 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. From April 2014 through July 2018, prior to respondent's admission to the bar, Samuel R. Pennington employed respondent as a paralegal at his law firm with offices in Orlando and Tavares. Mr. Pennington gave respondent wide latitude as paralegal and office manager to run the law offices.

2. Respondent was the sole employee at Mr. Pennington's Orlando office and performed duties of an office manager in addition to her work as a paralegal.

3. In 2015, respondent recommended to Mr. Pennington that he allow her to hire others to assist her in preparing bankruptcy petitions and otherwise assist with office tasks.

4. Respondent hired her then-boyfriend Sean Moskowitz to gather and prepare various documents relating to bankruptcy

petitions, and to complete various mailings required by the bankruptcy proceedings.

5. Respondent made payments to Mr. Moskowitz for these services rendered through his companies SOL Services LLC, SOL Legal-Law Processing LLC, and SolScapes Plus, LLC. These payments for services rendered were made through or using Mr. Pennington's law firm's PayPal accounts and through the firm's operating funds and credit cards.

6. In 2018, Mr. Pennington claims he first discovered these payments to Mr. Moskowitz's companies. Mr. Pennington stated he believed these payments were not authorized. Respondent believes that she had authority to hire assistants, including Mr. Moskowitz, to prepare bankruptcy petitions and perform other office tasks.

7. On July 18, 2018, Mr. Pennington confronted respondent about these allegedly unauthorized transactions. Respondent had previously discussed with Mr. Pennington the need to engage additional staff, and believed that she had authority to hire Mr. Moskowitz and others to gather and prepare the bankruptcy petitions and perform other office services and functions. Mr. Pennington disagrees with this.

8. On or about July 18, 2018, Mr. Pennington terminated respondent's employment due to the suspected misuse of firm operating funds. Respondent denies that these funds were misused.

9. The foregoing confrontation occurred while respondent was attending law school.

10. Respondent had previously submitted her application to The Florida Bar on or about January 13, 2017. Questions 12.a and 12.b asked whether respondent had ever been discharged, terminated, or asked to resign from employment, and both questions asked for a detailed explanation. Respondent answered both questions with "No."

11. As is typical with bar applications, respondent acknowledged in writing that she understood her duty to supplement her application on a going basis.

12. On or about March 21, 2019, respondent provided (at the Bar Examiners' request) additional information relating to her employment. Respondent did not disclose her termination from Mr. Pennington's firm. Rather, respondent advised that she "[s]topped working at Pennington Law Firm on 7-19-2018. I left to meet my last year of law school commitments and future bar preparation."

III. RECOMMENDATIONS AS TO GUILT

I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar: 4-8.1(b) (An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by rule 4-1.6.).

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:

7.1 Deceptive Conduct or Statements and Unreasonable or Improper Fees

(b) 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:

*TFB v. MacNamara*, 132 So. 3d 165 (Fla. 2013) – attorney suspended for 90 days for a Rule 4-8.1 violation. The attorney represented facts to the Bar about having filing a tax return for an estate, when in fact the tax return had not been filed.

*TFB v. Corbin*, 701 So. 2d 334 (Fla. 1997) – attorney suspended 90 days for making misleading summary judgment argument before a court, and for making false or misleading statements to the Bar relating to those summary judgment proceedings.

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. A 90-day suspension;

B. Completion of Ethics School within six (6) months of the Court's order approving the Consent Judgment and payment of the \$750.00 fee associated with attendance at this program;

C. Completion of the following Legal Fuel CLE programs within six (6) months of the Court's Order approving the Consent Judgment. Should any of the courses no longer be offered, respondent agrees to take equivalent courses approved by The Florida Bar prior to registering for those courses. These courses/hours are in addition to respondent's current Continuing Legal Education cycle and shall not count toward the required 33 hours needed pursuant to 6-10.3(b), Rules Regulating The Florida Bar. Respondent will submit an affidavit to the bar attesting to the completion of the courses.

- 1) **4173 A Conversation About Professionalism**  
Credit Hours: General – 1 hour, Professional Responsibility – 1 hour  
Credit Expiration Date: May 31, 2024  
Course No: 4173  
Available As: Online, [legalfuel.com/a-conversation-about-professionalism/](http://legalfuel.com/a-conversation-about-professionalism/)  
Cost: None
- 2) **4374 Greatest Hits of 2020: Rules, Recommendations, Benefits & More**  
Credit Hours: General – 1.5 hours, Ethics – 0.5 hours, Technology – 0.5 hours  
Credit Expiration Date: December 31, 2023  
Course No: 4374

Available As: Online, [legalfuel.com/the-greatest-hits-of-2020/](http://legalfuel.com/the-greatest-hits-of-2020/)

Cost: None

3) **3250 Legal Fuel Speaker Series: Building a Gold Reputation**

Credit Hours: General – 1 hour, Professional Responsibility – 1 hour

Credit Expiration Date: July 31, 2023

Course No: 3250

Available As: Online, [legalfuel.com/legalfuel-speaker-series-building-a-gold-reputation/](http://legalfuel.com/legalfuel-speaker-series-building-a-gold-reputation/)

Cost: None

4) **7108 Maintaining a Trustworthy Trust Account**

Credit Hours: General – 1 hour, Ethics – 1 hour

Credit Expiration Date: September 30, 2024

Course No: 7108

Available As: Online, [legalfuel.com/maintaining-a-trustworthy-trust-account/](http://legalfuel.com/maintaining-a-trustworthy-trust-account/)

Cost: None

D. Payment of the bar's disciplinary costs.

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: 48 years old

Date admitted to the Bar: September 19, 2019

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    | \$1,250.00 |
| Court Reporters' Fees | 3,816.05   |
| Investigative Costs   | 2,352.25   |
| TOTAL                 | \$7,418.30 |

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 9<sup>th</sup> day of June, 2023.

  
Ellen Sly Masters, Referee  
Polk County Courthouse  
PO Box 9000  
Bartow, FL 33831-9000

Original to:

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