

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

GARY CHARLES DE PURY,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File Nos.
2022-10,253 (06B);
2022-10,323 (06B)

**CONDITIONAL AGREEMENT FOR DIVERSION TO A
PRACTICE AND PROFESSIONALISM ENHANCEMENT PROGRAM**

Pursuant to rule 3-5.3(h)(1) the undersigned parties submit this conditional agreement for diversion to a practice and professionalism enhancement program.

I. RECOMMENDATION OF DIVERSION: Pursuant to Rule 3-5.3 of The Rules Regulating The Florida Bar, the undersigned agrees diversion of this matter to a practice and professionalism enhancement program under the terms and conditions stated herein.

a. The following programs are recommended:

- i. Respondent shall contact the Diversion/Discipline Consultation Service (DDCS) within 30 days of acceptance of the diversion recommendation in order to schedule a DDCS review. Respondent shall fully comply with and implement, at respondent's sole cost and expense, all recommendations made

by DCDCS within 60 days of the recommendation. DDCS will provide the Lawyer Regulation Department of The Florida Bar with status reports as to ordered analysis.

- ii. Completion of The Florida Bar's Ethics School, in person where scheduled by the bar, within 6 months of acceptance of conditional agreement.

II. NARRATIVE SUMMARY: In The Florida Bar File No. 2022-10,253 (06B): On or about July 6, 2021, respondent was retained by complainant Edna L. Dunston. Ms. Dunston paid respondent a \$1,500.00 non-refundable flat fee. The agreement and intent of the parties was not confirmed in writing. However, Ms. Dunston was provided a written invoice describing the exact legal services to be provided and she paid the invoice amount. Ms. Dunston contends the flat fee covered a land trust with tenancy agreement and estate planning documents, including a living will, advanced directive, and durable power of attorney. Respondent completed a land trust. He also prepared a tenancy agreement on behalf of Ms. Dunston, without additional charge. On January 28, 2022, respondent stated in his correspondence to the bar, "Mrs. Dunston did in fact hire me to produce one single document, a land trust". Prior to that, on July 7, 2021, respondent communicated with Ms. Dunston via text message and stated, "[t]he

trust will be completed by tomorrow at 11 _ I'll send an email verifying that the will package is included.” Respondent has not completed any further requested documents on behalf of Ms. Dunston such as living will, advanced directive, or durable power of attorney. On July 9, 2021, respondent, on behalf of Ms. Dunston, informed a third party that “[a]s of this writing, I have completed the Trust titled “The Honey Bear Land Trust.”” The trust document was not formerly executed until October 4, 2021.

In The Florida Bar File No. 2022-10,323 (06B) respondent communicated in an unprofessional manner with opposing counsel. Respondent has since apologized to opposing counsel and the two have a very friendly and professional relationship.

III. As mitigation, respondent has implemented a) an office policy of providing all clients written fee agreements; and b) agrees to refund to Ms. Dunston the entire fee paid of \$1,500.00 within thirty (30) days from acceptance of this diversion recommendation.

IV. COSTS: The respondent shall pay the costs of this matter which are:

Ethics School	\$750.00
DDCS	\$2,000.00
Administrative Fee	\$1,250.00
Court Reporter Fee	\$95.00

TOTAL

\$4,095.00

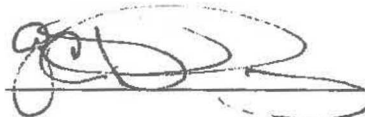
Costs shall be due The Florida Bar within 30 days from acceptance of this diversion recommendation.

V. EFFECT OF DIVERSION: Diversion to a practice and professionalism enhancement program shall close this disciplinary file without imposition of a disciplinary sanction and diversion shall not constitute a record of professional misconduct. If respondent successfully completes the diversion recommended hereunder, this disciplinary file shall remain closed.

VI. EFFECT OF FAILURE TO COMPLY WITH DIVERSION

RECOMMENDATION: If respondent fails to fully comply with all requirements of this diversion, the bar may reopen its disciplinary file and conduct further proceedings under rule 3-5.3(k). Failure to complete the practice and professionalism enhancement program shall be considered a matter of aggravation when imposing a disciplinary sanction. If you do not pay the costs assessed against you within 30 days of acceptance of this diversion recommendation, you will be declared a delinquent member pursuant to rule 1-3.6 and you will become ineligible to practice law in Florida.

DATED this 27th day of March, 2024.



Mr. Gary Charles De Pury

Law Offices Gary De Pury, P.A.
21035 Leonard Rd
Lutz, FL 33558-5193
813/607-6911
Florida Bar No.: 126588
gary@depury.com

 3-27-24

Mr. Donald A Smith Jr.
Counsel for Respondent
109 N Brush St Ste 200
Tampa, FL 336024116
813/273-0063
Florida Bar No.: 265101
dsmith@smithtozian.com



Evan D. Rosen
Bar Counsel
The Florida Bar
Tampa Branch Office
Post Office Box 270729
Tampa, Florida 33688
Florida Bar No. 106640
erosen@floridabar.org