IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JOHN PARKER FENNER,

Respondent.

_______________________/

Supreme Court Case No.
SC-

The Florida Bar File No.
2023-50,297(17G)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

The undersigned respondent, John Parker Fenner, files this Conditional Guilty Plea under R. Regulating Fla. Bar 3-7.9.

1. The respondent is, and at all times relevant to this matter was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.

2. The respondent is acting freely and voluntarily in this matter, and tenders this plea without fear or threat of coercion. Respondent is represented in this matter.

3. As to Florida Bar File No. 2023-50,297(17G), the respondent waives the right to a probable cause hearing before a grievance committee and stipulates to a finding of probable cause in reference to this matter.

4. The disciplinary measures to be imposed on the respondent are:

Suspension from the practice of law for **90 days**, effective 30 days from the date of the Supreme Court of Florida's order approving the consent judgment so that respondent can close out respondent's practice and protect the interests of existing clients.

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

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

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

1. accept no new clients from the date of the order;

2. initiate no litigation on behalf of clients from the date of the order; and

3. 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:

1. cease all practice of law in Florida;

2. cease holding respondent out as a Florida Bar member or lawyer and eliminate all indicia of respondent's status as a Florida Bar member or lawyer on websites, social media, telephone listings, stationery, checks, business cards, office signs, email address, and any other indicia of respondent's status as a Florida Bar member or lawyer;

3. wind down all pending matters;

4. cease withdrawing or disbursing any money from any trust account or other financial institution account holding funds of clients or third parties in respondent's possession in connection with legal representation;

5. not transfer any ownership of any real or personal property purchased in whole or in part with funds of clients or third parties in connection with legal representation; and

6. 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.

5. The following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

(a) The grievance arose from respondent's representation of clients in a Broward County case styled Yaralli v. Shariff, et. al., Case No. CACE09-57502.

(b) Complainant represented the plaintiff, Mark Yaralli. Respondent represented the defendants, Hamid and Carol Shariff, and Digiplot, Inc. Mark Yaralli is the brother of Carol Shariff who is married to Hamid Shariff.

(c) The Shariffs founded Digiplot in 1998 in Florida. When the company was facing economic hardship in 2004, the

Shariff's sought the help of Mr. Yaralli, a certified public accountant, who was living in New York. In July 2004, Mr. Yaralli moved to South Florida and became a 40% shareholder of Digiplot. Prior to this move, in 1992, Mr. Yaralli was arrested and convicted of a violent felony offense in Arizona. There was testimony that Mrs. Shariff was aware of the proceedings and attended court proceedings.

(d) Digiplot began to do better financially after the partnership. There was disagreement on whether to sell the company and the valuation of the company. As a result, the Shariffs suspended Yaralli by freezing him out of the business and locking him out of the office. As a result, Mr. Yaralli filed a lawsuit.

(e) On August 3, 2016, the court entered an Order On Judicial Notice, following a hearing and argument of counsel, denying the Defendant's request for the court to take judicial notice of: 1) Plaintiff's 2010 Florida CPA Application, 2) New York CPA Order; 3) Arizona Case Docket; and 4) Tempe AZ Police Report.

(f) During the September 2021 jury trial, during cross-examination Mr. Fenner asked plaintiff, "Sir, tell us, are you a convicted felon?" Mr. Fenner asked this question in front of the jury notwithstanding that prior to the trial, the trial court had entered multiple orders prohibiting reference to the Plaintiff's only criminal conviction, to wit: the 1992 conviction in Arizona.

(g) The governing court had determined that the conviction at issue was too remote and highly prejudicial such that it, and any facts related to it, should be excluded.

(h) Mr. Fenner's having asked the question in front of the jury prompted the presiding judge, the Honorable Keathan Frink to declare a mistrial and enter default against Mr. Fenner's clients, the Defendants.

(i) The pertinent prior court orders included:

a. On August 3, 2016, the court entered an Order on Motions in Limine, in which it denied the defendant's request to admit the same police report and arrest document from the 1992 arrest report, Plaintiff's 2010 CPA Application.

b. On August 22, 2016, the trial court entered an Order Denying Motion for Rehearing of Order on Motions in Limine and Request for Findings filed by the Shariff's.

c. On January 11, 2021, an Order on Plaintiff's Motion to Strike and for the Imposition of Sanctions was entered. Therein, the Defendant's were directed to file amended pleadings and the pleadings should make no reference to the matters previously stricken by the court.

(j) Following the mistrial, an evidentiary hearing was held to determine appropriate sanctions.

(k) During this hearing Mr. Fenner acknowledged that he read the orders and his understanding of the orders as follows:

> That I was not allowed to talk about either the arrest and conviction in Arizona, that I was not allowed to talk about Mr. Yaralli's leaving Deloitte and Touche and the reasons he gave for it. And I was not allowed to talk to the—talk about the 2012 abuse complaint filed by Mr. Yaralli's then wife. And certainly, that I could not admit the police report that was denied. . . . I'm sorry, let me ---okay. Also, I was not allowed to introduce Mr. Yaralli's New York Department of Education's CPA Order and I was not allowed to address the 2010 Florida CPA application.

(l) When asked why, in light of the many prior orders, he asked the question, respondent said he was not talking about a specific incident and that it was "just a general question, which [he] expected the defendant to answer truthfully," and that that would be the end of the inquiry.

(m) Respondent was then asked what he would have done had the Plaintiff said "no" to the question. Respondent responded that he had a secondary source indicating the convictions from the Department of Professional Regulation and would have gotten a certified copy, but that he "wouldn't go any further."

(n) The secondary source document, however, had never been disclosed by respondent on any exhibit list or pre-trial catalogue. Respondent stated he did not believe he was required to do so because it was a rebuttal document. However, the trial court's order required that all exhibits including rebuttal exhibits be listed.

(o) The trial court also asked Mr. Fenner if he recalled opposing counsel renewing the motions regarding the Arizona incident and the domestic incident as early as a week prior. Respondent acknowledged he did. However, he did not believe that the general question violated the court's directives.

(p) Respondent maintains that he did not intentionally cause a mistrial. At the hearing, respondent was asked if he had anything further he wanted to say:

> Thank you. I should have asked first. I've got attention deficit, I take medicine for it, but that's an explanation, it's not an excuse. And focusing on my cross examination, I simply missed what I should have done, which is ask the Court, out of the presence of the jury, if I could ask that question.

(q) In correspondence with the bar, respondent explained the same stating that that in hindsight he should have cleared the question with the judge. He also attributed surgical procedures to having impaired his "short-term memory and made [him] much slower mentally than usual."

(r) Following the *Kozel* hearing, the court determined the ultimate sanction of default against the defendants was appropriate. The court later granted plaintiff the entitlement to recover attorneys fees. The parties reached an agreement regarding plaintiffs award. The matter is now closed.

(s) By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 3-4.3 (Misconduct and Minor Misconduct); 4-3.4(c) (A lawyer must not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists); 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.").

6. The Florida Bar has approved this proposed plea as required by R. Regulating Fla. Bar 3-7.9.

7. Respondent offers the following in mitigation:

a. Mr. Fenner is 76 years old and a sole practitioner. Respondent has been a member in good standing with The Florida Bar for 36-years, since September 1988.

b. Respondent expresses remorse and acknowledges that he should have addressed the question first with the court to ensure that it was appropriate.

c. Respondent has at all times made full and free disclosure to the bar and demonstrated a cooperative attitude toward the proceedings.

d. Respondent has at all times acted in good faith and in a timely fashion in response to allegations or inquiries regarding respondent's actions and/or conduct.

e. Respondent has no disciplinary history.

8. If this plea is not approved by the Board of Governors of The Florida Bar and the Supreme Court of Florida, then it has no effect and may not be used by the parties in any way.

9. If this plea is approved, then respondent agrees to pay all reasonable costs associated with this case pursuant to Rule 3-7.6(q) in the amount of $1,283.00. These costs are due within 30 days of the court order. Respondent agrees that if the costs are not paid within 30 days of

this Court's order becoming final, respondent will pay interest on any unpaid costs at the statutory rate. Respondent further agrees these disciplinary costs are not dischargeable in any future proceedings, including, but not limited to, a petition for bankruptcy. Respondent will be delinquent and ineligible to practice law if respondent does not satisfy the cost judgment within 30 days of this order, unless The Florida Bar Board of Governors defers payment under R. Regulating Fla. Bar 1-3.6.

10. Respondent acknowledges the obligation to pay the costs of this proceeding and that payment is evidence of strict compliance with the conditions of any disciplinary order or agreement and is evidence of good faith and fiscal responsibility.

11. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of the Rules Regulating The Florida Bar.

Dated this 22 day of October, 2024.

John Parker Fenner

John Parker Fenner
Respondent
302 Lakeside Ct.
Sunrise, FL 33326-2117
(561) 306-7711
Florida Bar ID No. 762938
jfennerlaw@att.net

Dated this 23rd day of October, 2024.

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Dated this 23 day of October, 2024.

Keri T. Joseph

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IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR, Complainant, v. JOHN PARKER FENNER, Respondent. _________________________/	Supreme Court Case No. SC- The Florida Bar File No. 2023-50,297(17G)

STIPULATION TO ENTRY OF AGREED ORDER

The Florida Bar and John Parker Fenner, stipulate to the entry of the attached order in this case, subject to the approval of the Supreme Court of Florida and states:

Respondent is and, at all times relevant to this matter was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.

Respondent is simultaneously tendering a conditional guilty plea under an agreement with The Florida Bar for a consent judgment.

If the conditional guilty plea is approved, Respondent agrees to the terms and conditions in the agreed consent judgment and attached order.

It is therefore stipulated by The Florida Bar and Respondent that the attached order should be entered on approval of the Supreme Court of Florida.

Dated this 23 day of October, 2024.

/s/

John Parker Fenner, Respondent
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Approved by:

/s/

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