

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

WILLIAM GAUTIER KITCHEN,

Respondent.

Supreme Court Case

No. SC2025-0775

The Florida Bar File Nos.

2024-00,015(14); 2022-00,146(1A)

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. SUMMARY OF PROCEEDINGS

The undersigned was appointed as referee under R. Regulating Fla. Bar 3-7.6 to preside over the proceedings in this case.

On June 3, 2025, The Florida Bar (the bar) filed its complaint against respondent. The Supreme Court of Florida entered an order on June 4, 2025, designating the Chief Judge of the Third Judicial Circuit of Florida to appoint a referee in this case. The Honorable Melissa Gates Olin appointed the undersigned to serve as the referee.

Throughout these proceedings, the bar was represented by Bar Counsel Olivia Paiva Klein and Shaneé L. Hinson. Respondent was represented by Elizabeth Minor Van den Berg and Sarah Finney Kjellin.

All of the pleadings, responses, exhibits received in evidence, and this report constitute the record in this case and are filed with the Supreme Court of Florida.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during these proceedings was, a member of The Florida Bar, subject to the jurisdiction and Rules Regulating The Florida Bar adopted by the Supreme Court of Florida.

B. Narrative Summary of Case.

**COUNT I – TFB File No. 2024-00,015(14) – COMPLAINT OF
RICHARD BALDWIN**

1. In or around January 2023, Richard Baldwin (“Mr. Baldwin”) hired respondent, through a referral by ARAG legal insurance, to represent him in a county court collections case and to possibly file for bankruptcy.

2. Respondent advised Mr. Baldwin that he may qualify for a Chapter 7 Bankruptcy and filed the petition on January 30, 2023.

3. On February 17, 2023, Charles Fordham (“Mr. Fordham”) from the Office of the U.S. Trustee, reached out to respondent requesting an explanation and documentation to support why the filing of this case as a Chapter 7 should not be considered abusive.

He asked respondent to provide his response no later than February 27, 2023.

4. Despite additional requests on February 28, 2023, and March 1, 2023, respondent failed to respond to Mr. Fordham.

5. On March 1, 2023, Mr. Fordham and Jeremy Reynolds, respondent's paralegal, were sent an email from respondent which simply stated: "Jeremy, can you address this?"

6. This email was the only communication between respondent and Mr. Fordham. No further explanation or documentation was forthcoming.

7. The first meeting of creditors was scheduled for March 6, 2023. Respondent failed to appear.

8. The creditor's meeting was continued to April 4, 2023. Again, respondent failed to appear.

9. Additionally, none of the required documents were uploaded to the portal for the Trustee's review.

10. On April 4, 2023, at 10:00 a.m., Theresa Bender ("Ms. Bender"), the Chapter 7 Private Panel Bankruptcy Trustee, emailed respondent, "The hearing today was called without any appearances of debtor or attorneys."

11. That same day at 5:05 p.m., respondent replied, "I did not get any notice of a hearing."

12. That evening at 8:42 p.m., Ms. Bender responded, "Please see the attachment issued by the Clerk of the Court. It is ECF No. 3 on the Court Docket. The first meeting was continued for failure to appear. The continued meeting is on the case docket at ECF No. 40 and placed on the Court's Public Calendar. The Debtor is required by federal law to appear under oath before the Chapter 7 Trustee. This is basic Bankruptcy Procedure. I suggest you consult with a member of the local bankruptcy bar as to the Federal and Local Rules and Procedures. ... Failure to perform your duties and responsibilities can result in your fees being disgorged."

13. Although respondent admits in his response to the bar that his office was aware that the meeting of creditors was initially scheduled to occur on March 6, 2023, that they timely notified the client and provided Zoom instructions and that respondent's paralegal held a telephonic meeting with Mr. Baldwin on Thursday, March 2, 2023, respondent failed to explain why that information was not communicated to him by his staff.

14. All hearing notices were available on the court docket, to which respondent had access.

15. On April 6, 2023, the United States Trustee's attorney, Jason H. Egan, filed a motion to dismiss based on presumption of abuse pursuant to 11 U.S.C.707(b) and set the motion for hearing on May 18, 2023.

16. In addition to serving respondent via the e-filing portal, a copy of the motion was also emailed directly to respondent's office.

17. Respondent failed to file a response to the motion to dismiss.

18. Respondent failed to appear for the motion hearing on May 18, 2023. Mr. Baldwin appeared without counsel.

19. After Mr. Egan informed the court that he had no contact with respondent, the judge inquired about Mr. Baldwin's communication with respondent. Mr. Baldwin testified, under oath, that it had been several months since he had spoken to respondent, even though he had called asking for a status report, and asked respondent to call him.

20. The judge continued the hearing to June 15, 2023, and entered an Order to Show Cause requiring respondent to appear at

the hearing and explain why he had failed to appear at the previous hearing, failed to communicate with his client or the Trustee's office, and failed to file a response to the motion to dismiss.

21. Respondent failed to appear for the June 15, 2023, hearing. The judge noted that respondent had been served with notice of the hearing and he was still counsel of record. She read the Order to Show Cause into the record, stating that respondent was in violation of the local bankruptcy rules, and that, having agreed to represent Mr. Baldwin, he had ignored the court rules and abandoned his client.

22. On June 16, 2023, the judge dismissed the bankruptcy case without prejudice and advised a sanction order would follow.

23. On July 14, 2023, the court entered an Order Sanctioning Debtor's Counsel for Failure to Satisfy Order to Show Cause, holding respondent in contempt and ordering him to disgorge the attorney's fees paid to him by Mr. Baldwin within 14 days and to provide proof to the court within 7 days of payment. The order was referred to The Florida Bar.

24. Respondent stated in his response to the bar that "Mr. Baldwin is believed to have understood that Mr. Kitchen's withdrawal

was completed at the time he appeared for and testified at the June 15, 2023, hearing.”

25. There is no record, however, of a motion to withdraw or order granting same on the court docket, nor did Mr. Baldwin testify to any withdrawal of respondent at the June 15, 2023, hearing.

26. Respondent failed to competently and diligently represent his client during the bankruptcy proceedings.

27. Respondent failed to promptly and reasonably communicate with his client during the bankruptcy proceedings.

28. Respondent failed to comply with numerous rules of the Bankruptcy Court, including failing to appear for scheduled hearings, failing to promptly comply with discovery requests by the Trustee, and failing to file a response to the court’s Order to Show Cause.

29. Respondent failed to properly supervise and reasonably review the work product of his assistant/employee during the bankruptcy proceedings. Because respondent had direct supervisory authority over the employee/assistant, he knew, or should have known, of his conduct when its consequences could have been avoided or mitigated, but respondent failed to take reasonable remedial action.

30. Respondent's actions were prejudicial to the administration of justice during the bankruptcy proceedings.

**COUNT II – TFB FILE NO. 2022-00,146(1A) – COMPLAINT
OF MAGGIE PATTERSON**

31. In or around November 2020, respondent joined another attorney as co-counsel for Maggie Patterson ("Patterson") in two matters: a discrimination suit and a whistleblower complaint.

32. Both counsels signed a contingency fee agreement with Patterson.

33. The complaint in the discrimination suit was timely filed. However, the other attorney advised that he could not handle the whistleblower complaint and referred that matter to respondent for sole representation.

34. According to respondent, he explained to Patterson that he filed the necessary Whistleblower Charge with FCHR. FCHR did not determine the facts warranted a Right to Sue under the law and therefore, no Right to Sue was issued by FCHR to proceed with a lawsuit for the whistleblower claim.

35. During the representation, Patterson filed several additional claims with the Florida Commission on Human Relations, without respondent's knowledge.

36. Respondent and Patterson were not able to come to a meeting of the minds about moving forward with the whistleblower claims. According to respondent, he was not legally able to do so absent a Right to Sue letter being issued by FCHR.

37. Patterson subsequently terminated respondent and co-counsel and retained new counsel.

III. RECOMMENDATIONS AS TO GUILT

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

As to The Florida Bar File No. 2024-00,015(14): 4-1.1 (Competence), 4-1.3 (Diligence), 4-1.4 (Communication), 4-1.16(a)(1) (Termination of Legal Services), 4-3.4(c) (Knowingly disobey an obligation under the rules of a tribunal), 4-3.4(d) (In pretrial procedure, fail to provide discovery), 4-5.3 (Responsibilities Regarding Nonlawyer Assistants), and 4-8.4(d) (Conduct Prejudicial to the Administration of Justice).

As to The Florida Bar File No. 2022-00,146(1A): 4-1.4 (Communication).

IV. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Before recommending discipline under R. Regulating Fla. Bar 3-7.6(m)(2)(D), I considered the following personal history of respondent:

Age: 49

Date admitted to the Bar: November 20, 2003

Prior Discipline: None

V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Florida Standards for Imposing Lawyer

Sanctions before recommending discipline:

4.4 Lack of Diligence

Suspension is appropriate when a lawyer causes injury or potential injury to a client and:

- (1) knowingly fails to perform services for a client; or
- (2) engages in a pattern of neglect with respect to client matters.

4.5 Lack of Competence

Suspension is appropriate when a lawyer engages in an area of practice in which the lawyer knowingly lacks competence and causes injury or potential injury to a client.

6.2 Abuse of the Legal Process

Suspension is appropriate when a lawyer knowingly violates a court order or rule and causes injury or potential injury to a client or a party or causes interference or potential interference with a legal proceeding.

I find the following aggravating factors:

- (4) multiple offenses;
- (9) substantial experience in the practice of law;

I find the following mitigating factors:

- (1) absence of a prior disciplinary record;
- (3) personal or emotional problems; beginning March 2023, respondent was dealing with his father's rapidly deteriorating health. His father passed away on July 12, 2023.
- (4) timely good faith effort to make restitution or to rectify the consequences of the misconduct; respondent retained a third-party consultant for practice management services to ensure against similar issues arising in the future.
- (5) full and free disclosure to the bar or cooperative attitude toward the proceedings; and
- (12) remorse; respondent expressed remorse about his handling of the bankruptcy matter, in both his response to the initial complaint and in his statements provided via his counsel.

VI. CASE LAW

I considered the following case law before recommending discipline:

In The Florida Bar v. Hill, 2020 WL 6688887, SC20-754 [2020-00,333(04D)], by Court order dated November 12, 2020, the Court suspended the lawyer for 60 days, 10 additional hours bankruptcy CLE, and FLA. The lawyer admitted he provided substandard services in the debtor's case by failing to: obtain the debtor's signature on the bankruptcy documents, timely file schedules, and timely notice hearings. As a result of the foregoing, Hill's previous history also came to light and revealed that his cases often resulted in sanctions – either for himself, his clients, or both. Of the 34 cases filed by Hill, only a single case resulted in a discharge. Of the other 33 cases, 32 cases resulted in dismissal without a discharge, and one case resulted in administrative closure without a discharge due to his failure to file a financial management certificate.

In The Florida Bar v. Spindel, 2022 WL 16641080, SC22-1423 [2020-70,261(11C) and 2020-70,266 (11C)], by Court order dated November 3, 2022, pursuant to a consent judgment, the lawyer was suspended for 30 days. In two separate bankruptcy matters, the lawyer failed to provide his

clients with diligent representation and failed to adequately communicate with his clients. In his response (but not publicly), the lawyer accused one client of attempting to perpetrate criminal tax and bankruptcy fraud by filing a bankruptcy petition. Without the client's authorization, the lawyer also submitted to the bar unredacted documents containing her financial information. The lawyer explained to the bar that he was overseas during the relevant time period and that civil unrest in Hong Kong in 2019 had sharply limited his ability to communicate abroad. The lawyer fully refunded his fees, and he had no prior discipline.

In The Florida Bar v. Saracco, 2019 WL 3731665, SC19-1217, by Court order dated August 8, 2019, the Court approved the pre-complaint consent judgment and suspended Saracco for 30 days. The Fifth DCA affirmed a trial court's order imposing sanctions against Saracco and his clients pursuant to Florida Statute 57.105. Saracco and his clients had entered into a stipulated final judgment that included the sanctions, thus the appellate court found that his clients failed to preserve the issue for appeal. The appellate court also issued an order to Saracco to show cause why the court should not sanction him for making what appeared "to be a blatant, material misrepresentation" in his brief regarding the trial court's findings on the sanctions motion and "failing to correct the misrepresentation when it was clearly and forcefully brought to his attention by opposing counsel." In its Answer Brief, the opposing party characterized the lawyer's statements as being "patently false" and "outrageous." Saracco then failed to file a Reply Brief or otherwise correct his mischaracterization. In response to the bar's inquiry, Saracco provided his response to the Fifth DCA's show cause order wherein the lawyer apologized for the misstatement and assured the appellate court that this conduct would not be repeated. The appellate court entered an order accepting the lawyer's apology with no further sanctions and discharging the show cause order. He maintains that it was never his intention to deceive the court, and he regrets that he did not correct his brief. At the time of the misconduct, Saracco was inexperienced in the practice of law.

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

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

- A. Suspension from the practice of law for 60 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 his practice and protect the interests of existing clients.
- B. Respondent must attend the Professionalism Workshop, 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.
- C. Payment of The Florida Bar's costs.

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 Reporter Fees	403.00
Investigative Costs	114.30
TOTAL	\$1,767.30

I recommend that the above costs be charged to respondent and that interest accrue at the statutory rate. If respondent does not satisfy the cost judgment within 30 days of the judgment becoming final, respondent will be delinquent and ineligible to practice law under R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 7th day of January, 2026.



Hon. Edwin Bailey Browning, III
Referee

Filed with the Supreme Court of Florida via the Florida Courts E-Filing Portal with copies served via the Portal to:

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