

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

CHRISTOPHER LOUIS BRADY,

Respondent.

Supreme Court Case
No. SC19-39

The Florida Bar File
No. 2019-10,127 (12B) (HES)

REPORT OF REFEREE

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 January 10, 2019, The Florida Bar filed its Petition for Emergency Suspension alleging violations of seven different rules against Respondent, Christopher L. Brady, Esq. The Honorable Janeice T. Martin was appointed as the Referee in this matter pursuant to the January 16, 2019 Order of the Supreme Court of Florida and the January 17, 2019 Order of the Honorable Michael T. McHugh, Chief Judge of the Twentieth Judicial Circuit. During these proceedings, Matthew I. Flicker, Esq., represented The Florida Bar and Respondent represented himself, *pro se*.

The Referee conducted a bifurcated trial regarding the allegations of the Bar's Petition. The guilt phase began on April, 3, 2019 and concluded mid-day, April 4, 2019. On both days of trial, Respondent was approximately thirty (30) minutes late in arriving to court. At the trial, the Referee considered testimony from the following witnesses: (1) Anthony Barak, Esq., (2) Louis Pironti, Esq., (3) Edwin Vallen, Esq., (4) Stephanie Hoffman, Esq., (5) Nico Santi, Esq., and (6) Mr. Paul Brosky. In addition to the foregoing witnesses, the Bar submitted thirteen exhibits into evidence and the Respondent submitted eight exhibits.

Immediately upon the conclusion of receiving testimony, evidence and argument from both Parties for the guilt phase of the proceeding, the Referee took a recess to deliberate. The Referee then recalled the Parties and made an oral pronouncement of her findings. The Referee advised the Parties that she had concluded there was clear and convincing evidence to support a recommendation that Respondent be found guilty of violating each of the seven rules as alleged in the Bar's Petition.

Immediately thereafter, the sanctions phase of the proceeding began on the early afternoon of April 4, 2019. The Florida Bar presented its sanctions argument and offered the Standards for Imposing Lawyer Sanctions and case law deemed pertinent to its requested sanction: permanent disbarment. At the close of the Bar's

sanctions argument, the Referee provided Respondent with an opportunity to present his argument as to sanctions.

The Respondent advised the Referee that he was not prepared to proceed with the sanctions hearing, and requested to adjourn for the day and resume the next morning with his argument. The Referee noted that this bifurcated, consecutive trial process was decided upon by the Referee and both Parties several weeks earlier at the Status Hearing on February 18, 2019, and there was no reason for Respondent to have failed to prepare to address sanctions immediately following his trial as to guilt. The Referee further noted that both Parties had traveled some distance to attend this trial, and the Referee had cleared her calendar of other important business. As such, the Referee denied Respondent's request to adjourn and reconvene the next day, but instead provided Respondent with the opportunity to submit written argument to the Bar and the Referee by the close of business on the following day, April 5, 2019.

However, rather than file a memorandum with the Referee addressing the issue of sanctions, on the evening of April 5, 2019, Respondent instead submitted a written motion to the Supreme Court of Florida requesting a mistrial and other declaratory relief. The motion was never provided to the Referee, and was summarily denied by the Supreme Court of Florida. As such, the Respondent has declined to make argument to the Referee with regard to sanctions.

All items properly filed, including pleadings, transcripts, exhibits and this Report, constitute the Record in this case and are being forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

Jurisdictional Statement. Respondent is, and was at all times mentioned in the Bar's Petition, a member of the Florida Bar, admitted on April 22, 2013, and is subject to the jurisdiction of the Supreme Court of Florida.

Narrative Summary of Case. The Referee finds from clear and convincing evidence presented during the trial, including all permissible inferences derived therefrom, the following ultimate facts were established by credible testimony:

Respondent was an associate, at-will employee of the Barak Law Group. The Barak Law Group is a private law firm in Manatee County, Florida. Anthony Barak, Esq. was at all times relevant to this matter the sole owner and managing member of the Barak Law Group. At no point in time did Respondent hold a partnership or ownership interest in the Barak Law Group. In July 2018, Respondent was terminated from Mr. Barak's firm for cause. Mr. Barak testified that he terminated Respondent after Respondent had begun to exhibit odd and concerning behavior and had missed hearings.

Almost immediately after his termination, Respondent began holding himself out to be the lone true owner of Barak Law Group. Based on the

statements made by Respondent during the trial and through his submissions to this Referee, Respondent believed that Mr. Barak's firm was not a valid professional association. As such, he believed that he had the right to create a "new" firm of the same name.¹

After doing so, Respondent contacted Edwin Vallen, Esq., who served as opposing counsel on several cases with Mr. Barak's firm. Respondent informed Mr. Vallen that he was no longer to communicate with Mr. Barak regarding their shared pending cases. Respondent further advised Mr. Vallen that Respondent was now the shareholder of Mr. Barak's firm. As proof of same, Respondent directed Mr. Vallen to a fictitious website, entitled 'baraklawgrouppa.com'. The website provided to Mr. Vallen is not the accurate website for Mr. Barak's firm.²

Respondent's misrepresentations regarding his perceived involvement in Mr. Barak's firm were not limited to communications with Mr. Vallen. Respondent also reached out to Ms. Stephanie Hoffman, Esq., another opposing counsel on cases with Mr. Barak's firm. Respondent advised Ms. Hoffman that Mr. Barak was no longer part of the Barak Law Group, and that Respondent was the only

¹ Respondent testified that he was merely trying to bring Mr. Barak's firm into statutory compliance by filing a Professional Association under the same name with proper punctuation in the "P.A." His stated intentions and expertise are belied by two important facts: (1) Respondent named himself as the shareholder in the "corrected" business and divested Mr. Barak entirely of any ownership therein, and (2) Sunbiz rejected Respondent's "corrected" filing as being too close to Mr. Barak's original corporate filing.

² The correct site is only different by a few letters: tbaraklawgroup.com. While the real site contains contact information for the real Barak Law Group, Respondent's site contained only contact information for Respondent. Respondent's site would eventually be shut down pursuant to the Injunction obtained by Mr. Barak against Respondent.

remaining active bar member. Respondent's representations to Ms. Hoffman were similarly misleading and inaccurate regarding his alleged ownership or control of Mr. Barak's firm.

In addition to and simultaneous with Respondent's harmful and fraudulent representations to various opposing counsel, Respondent began what is best characterized as a series of very personal attacks upon Mr. Barak and his firm, and by extension, his clients. Specifically, on August 12, 2018, Respondent and his twin brother, Matthew Brady, a non-attorney, burglarized Mr. Barak's firm. The Bar introduced very clear video evidence of the brothers committing the burglary in broad daylight at Mr. Barak's firm. As the video played, Mr. Barak testified as to what was being depicted. Mr. Barak unequivocally identified Respondent and his brother, as they were seen backing Respondent's truck up to Mr. Barak's firm, tying a rope from the truck to the front door, and using the vehicle to rip the front doors open.

The video further depicted Respondent and his brother rushing through the open doors and hurriedly removing two sizeable items from the law firm. Mr. Barak's uncontroverted testimony established that it was Respondent's brother who could be seen removing the firm's safe, and it was Respondent who personally removed the firm's computer server. After exiting with those two large items, the brothers quickly re-entered the truck and sped off.

Beyond the video evidence of the burglary, the Referee has been presented with Respondent's confession to taking the firm's server via text message to Mr. Barak. Further, the Referee was presented with evidence that a few days later on August 15, 2018, Respondent and his brother were discovered burglarizing Mr. Barak's storage unit using keys that were kept in the office safe, and in addition to various other items, taking a firearm belonging to Mr. Barak. Respondent and his brother are currently facing multiple felony charges in connection with these actions.

As a direct result of Respondent's behavior, Mr. Barak sought counsel and obtained an injunction against Respondent. In granting the injunction, a Circuit Court Judge expressly prohibited Respondent or his associates from contacting Mr. Barak, his employees, his clients or his attorney, and from harassing Mr. Barak or interfering with his business. Unfortunately, Mr. Barak's temporary and later permanent injunction failed to alter or even slow Respondent's aggressive and defiant behavior. In fact, Respondent openly continued his campaign to interfere with and harass Mr. Barak, his firm, and his clients. In total, Respondent would end up being held in Contempt on three separate occasions by the Circuit Court for intentionally violating this injunction.

Having been terminated for cause from Mr. Barak's firm, and having been ordered by a Circuit Court Judge to stay completely clear of Mr. Barak, his firm

and his clients, Respondent was fully aware that he no longer had any lawful authority to represent Mr. Barak, Mr. Barak's firm, or any firm clients.

Nevertheless, the Referee was presented with evidence of multiple subsequent efforts by Respondent to file documents on behalf of Mr. Barak, his clients and others without their knowledge or authority. Respondent's false and unauthorized filings can be best divided into three groups: filings on behalf of Mr. Barak and his firm, filings on behalf of Chambers Medical Group, and filings in an unrelated case wherein Respondent simply held himself out as being affiliated with Mr. Barak's firm.

Addressing first the Respondent's filings on behalf of Mr. Barak and his firm, the Referee was presented with several examples of such conduct. Importantly, the examples came from the suit for injunction that Mr. Barak was prosecuting against the Respondent in an attempt to force the Respondent to stop his interference and harassment. The Referee was presented with three 'offending' notices of appearance that were filed by the Respondent in that case. The first notice of appearance which Respondent signed and filed with the Circuit Court named Respondent as counsel for Mr. Barak. It was clearly false and was filed without Mr. Barak's authorization. The second notice of appearance was equally false, but far worse: to that notice, Respondent forged another attorney's signature, Louis Pironti, Esq., and held him out to be counsel for Mr. Barak, without any

consent or knowledge on the part of Mr. Pironti. Thereafter, Respondent filed a third false notice of appearance, once again holding himself out to be counsel for Mr. Barak.

The harassment and intentional misrepresentation to the Circuit Court did not end with notices of appearance. After filing his notices, Respondent then filed a confession of judgment on behalf of Mr. Barak, and in favor of Respondent, in the injunction proceeding that Mr. Barak had filed for the express purpose of ending such harassment. Respondent's confession of judgment on behalf of Mr. Barak was patently false, and constituted a flagrant fraud upon that court.

Addressing second the Respondent's filings on behalf of Chambers Medical Group, the Referee was presented with multiple filings which the Respondent made post-termination from Mr. Barak's firm. Again, the evidence was clear that Respondent had no authority to represent Chambers or any other Barak Law Group client after his termination. Nevertheless, the Referee was presented with the credible testimony of Chambers' Chief Operating Officer, Mr. Paul Brosky, who recounted Respondent's efforts to solicit Chambers as a prospective client after he had been terminated by Mr. Barak. Respondent explicitly asked Chambers to employ him for legal services instead of Mr. Barak – Chambers declined. Such rejection did not deter Respondent. Respondent nevertheless proceeded to file numerous documents on behalf of Chambers. Additionally, Respondent filed over

100 “Notice[s] of Charging Lein” [sic] in various pending Chambers cases being handled by Barak Law Group, therein asserting that he was entitled to fees from those cases. The documents and representations contained therein were again false and misleading, and interfered with the legal process for those courts and litigants.

Finally, addressing Respondent’s filings in a case unrelated to the business of Mr. Barak or Chambers, the Referee was presented with documents from a family law matter involving Respondent’s brother to whom Respondent served as counsel of record. Over a span of weeks, well after the entry of the Final Injunction prohibiting such actions, Respondent filed at least six documents in a Sarasota County family case which included signature blocks stating that Respondent was affiliated with Mr. Barak’s firm. Again, Respondent’s representations were false and were in direct violation of that injunction. Respondent suggested at trial that these representations were the result of a clerical mistake on the part of his brother, who was assisting him with his filings in this case. Nevertheless, Respondent applied his signature over each erroneous signature block, on all six documents presented to the Referee.

Since the filing of this Petition and entry of the Order Granting Emergency Suspension by the Supreme Court of Florida, the Respondent has been adamant that his conduct and actions were acceptable based on his review of laws relating to the construction of professional associations in Florida. Respondent has made

clear that he believes Mr. Barak did not have a valid professional association during the time of his employ at the firm, and that Respondent's actions to bring the firm into compliance entitled him to declare himself the owner of the firm, its clients and its assets. Respondent did not call any witnesses in support of his position, nor could he offer the Referee any legal authority to support his interpretation of the laws regarding the formation of corporations.

Despite this dearth of authority or support, on the eve of his trial for violation of seven separate Rules of Professional Conduct, Respondent decided to file a pre-trial motion, wherein he accused Bar counsel and several of the Bar's witnesses of fraud. The motion was predicated on this same notion that Mr. Barak's corporate filings were patently flawed, and thus all actions taken in defense of Mr. Barak's right to run that corporation free from interference by the Respondent perpetuated the fraud committed by Mr. Barak in forming the corporation contrary to statute (or contrary to Respondent's interpretation of statute, to be more precise). The Referee declined to rule on the motion pre-trial, but invited Respondent to raise it again at the close of the evidence, if he felt the evidence supported the motion.

At the close of the evidence, Respondent accepted the opportunity to argue his motion. However, when invited to do so, Respondent was able to provide absolutely no authority to support his interpretation of the statutes that he was

highlighting. While the Referee can discern how Respondent arrived at his closely held belief that a lack of periods in the designation of a Professional Association (P.A.) is not expressly authorized by statute, the Referee notes that Respondent could produce no authority to support that interpretation, nor importantly, to support his extrapolation that the lack of punctuation renders all actions of the Professional Association necessarily unlawful.

Given this total absence of legal (or rational) authority for Respondent's position, the Referee concluded that neither the Bar nor its witnesses engaged in any type of fraud. Accordingly, Respondent's motion was denied. Quite to the contrary of Respondent's intentions, the arguments in his pre-trial motion not only failed to provide justification for his unprofessional actions as described in the Petition, they served further to support the Bar's position and the Referee's conclusion below that Respondent is unfit to practice law.

III. RECOMMENDATION AS TO GUILT

Based upon the foregoing, the undersigned recommends that Respondent be found guilty of violating Rule 3-4.3, Rule 4-3.1, Rule 4-3.4c, Rule 4-4.4, Rule 4-5.8, Rule 4-8.4c, and Rule 4-8.4d of the Rules Regulating the Florida Bar, as more specifically set forth below.

A. Violation of Rule 3-4.3

- a. There is clear and convincing evidence that Respondent violated this rule by committing multiple acts that were contrary to honesty and justice. In reaching this conclusion, the Referee has considered especially: (a) Respondent's burglaries of Mr. Barak's firm and storage unit, and theft of the firm's safe and computer server, plus a firearm, (b) Respondent's forging of Mr. Pironti's signature on a document that he then filed with a court, (c) Respondent's filing of multiple notices of appearance on behalf of Mr. Barak in a suit brought by Mr. Barak against Respondent, (d) Respondent's subsequent filing with that same court a fraudulent confession of judgment on behalf of Mr. Barak and in favor of himself, and (d) Respondent's misrepresentations to Mr. Vallen and Ms. Hoffman regarding Respondent's ownership of Mr. Barak's law firm.

B. Violation of Rule 4-3.1

- a. There is clear and convincing evidence that Respondent violated this rule by defending proceedings and controverting issues which had no good faith basis in fact or law. Respondent

had a duty not to abuse legal procedures. In finding support for a violation of this Rule, the Referee considered especially: (a) Respondent's filing of over 100 notices of charging lien in direct violation of an injunction order and with no basis in law to claim said lien, (b) Respondent's continued harassment of Mr. Barak, his clients and opposing parties, and (c) Respondent's egregious misconduct as evidenced by his inappropriate false filings in the injunction proceeding purportedly on behalf of Mr. Barak including multiple notices of appearance and a confession of judgment.

C. Violation of Rule 4-3.4c

- a. There is clear and convincing evidence that Respondent violated this rule by knowingly disobeying an obligation under the rules of the tribunal. The Referee has considered Respondent's numerous actions in direct violation of the injunction against him, including false and unauthorized court filings, improper contact with clients and opposing counsel of Mr. Barak, and continued harassment of Mr. Barak personally. On no fewer than three separate occasions, the Circuit Court

held Respondent in contempt for such violations of the injunction.

D. Violation of Rule 4-4.4

- a. There is clear and convincing evidence that Respondent violated this rule by use of means that had no substantial purpose other than to embarrass, harass, delay or burden a third person. With regard to this violation, the Referee has considered: (a) Respondent's acts of theft as well as Respondent's confession to taking Mr. Barak's server, the loss of which in turn burdened all clients and employees of Mr. Barak's firm, (b) the impact of Respondent's unauthorized filings on Mr. Barak's clients and their opposing parties and counsel, and (c) Respondent's forgery of Mr. Pironti's signature on a document filed with the court in the case against Mr. Barak, thereby dragging another member of the Bar into a controversy without his knowledge or consent. This last example is particularly concerning to the Referee, as it placed Mr. Pironti's privilege to practice law in jeopardy, as the filing itself was fraudulent.

E. Violation of Rule 4-5.8

- a. There is clear and convincing evidence that Respondent violated this rule by engaging in inappropriate contact with one or more clients of Barak Law Group after Respondent was fired for cause from said firm. Here, the Referee considered Respondent's actions in unilaterally contacting Mr. Brosky to solicit Chambers Medical Group to hire Respondent and fire Mr. Barak, post-termination from Mr. Barak's firm. Additionally, the Referee considered Respondent's communication with Mr. Vallen in which Respondent asked Vallen to direct all communications to him, and not to Mr. Barak, and referred Mr. Vallen to a fictitious website specifically designed to steer business away from Mr. Barak and to Respondent instead.

F. Violation of Rule 4-8.4c

- a. There is clear and convincing evidence that Respondent violated this rule by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. The Referee has considered especially (a) Respondent's burglary of Mr. Barak's firm and storage unit, and the resulting theft of some of the law firm's

most sensitive assets in its safe and its computer server, (b) Respondent's inappropriate contact and representations to Mr. Vallen that Respondent now owns the law firm and Mr. Barak is out, and (c) the myriad documents filed by Respondent post-termination making continual false representations that Respondent was authorized to practice law on behalf of Barak Law Group and its clients, and that Respondent was entitled to the fees from Mr. Barak's cases.

G. Violation of rule 4-8.4d

- a. There is clear and convincing evidence that Respondent violated this rule by engaging in conduct in connection with the practice of law that was prejudicial to the administration of justice. The Referee has considered especially (a) Respondent's repeated violations of the injunction order, including three formal findings of contempt by the Circuit Court that issued said injunction, (b) Respondent's forgery of Mr. Pironti's signature on a legal document that Respondent then filed with the court in his case against Mr. Barak, and most brazenly (c) Respondent's patently fraudulent effort to name himself as Mr. Barak's counsel in one filing in the

Circuit Court injunction case, and then immediately to confess judgment on behalf of Mr. Barak in the next filing, with the full intent to deceive the court into entering judgment in Respondent's favor when there was no lawful basis to do so.

IV. CASE LAW

I considered the following case law prior to recommending discipline in this matter:

Florida Bar v. Bernardo Roman, (SC16-1330) Respondent was permanently disbarred after engaging in a pattern of misconduct while acting as tribal counsel for the Miccosukee Tribe. Respondent filed frivolous and fraudulent court pleadings and made multiple misrepresentations under oath.

Florida Bar v. Adams / Florida Bar v. Filthaut, (SC14-1054 and SC14-1056) Respondents were permanently disbarred for conduct the Supreme Court of Florida has characterized as being among the most shocking, unethical, and unprofessional actions ever brought before the Court. Respondents conspired among themselves and with others to deliberately and maliciously effect the DUI arrest of opposing counsel during the pendency of a high-profile trial. The Court unanimously agreed that permanent disbarment was appropriate for Respondents, and stated its intentions that said penalty would remind other members of the Bar of the high

standards of professional conduct demanded of each of them, and would warn all members that the Court would not tolerate such outrageous conduct.

Florida Bar v. Thompson, (SC07-80/SC07-354) Respondent was permanently disbarred for making false statements of material fact to a tribunal, knowingly disobeying obligations under the rules of a tribunal, engaging in ex-parte communications, using means that have no substantial purpose other than to embarrass or delay, engaging in conduct involving dishonesty, fraud and deceit, and engaging in conduct prejudicial to the administration of justice.

Florida Bar v. Hall (SC07-863) Respondent was disbarred after engaging in fraudulent conduct in her personal affairs by filing a forged document. Respondent engaged in dishonest and fraudulent conduct with property owners after she recorded a fraudulent document in the clerk's office in order to tie up real property. The Supreme Court of Florida concluded this behavior demonstrated the lawyer's inability to maintain personal integrity, and thus warranted disbarment.

Florida Bar v. Kickliter, (559 So.2d 1123) Respondent was disbarred for five years for forging a client's signature on a will and submitting same for probate. Despite the Referee's finding of substantial mitigating factors, including the lack of any selfish or dishonest motive, the Supreme Court of Florida found disbarment to be appropriate due to the magnitude of the attorney's misconduct, and his persistence in advancing the fraud until criminal proceedings finally exposed it.

V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the all of the Standards for Imposing Lawyer Sanctions as adopted by the Board of Governors of the Florida Bar, prior to recommending discipline, and found the below Standards to apply to the facts in this case.

A. Standard 4.0 – Violations of Duties Owed to Clients

a. Standard 4.6 – Lack of Candor

- i. Standard – 4.61 states disbarment is appropriate when a lawyer knowingly or intentionally deceives a client with the intent to benefit the lawyer or another regardless of injury or potential injury to the client.

This Standard was implicated by Respondent's efforts through his phone call to Mr. Brosky of Chambers Medical to lure that client to retain Respondent based upon misrepresentations that Respondent made regarding Chambers' existing counsel, Barak Law Group.

Respondent took these actions with the intent to benefit himself and harm Mr. Barak, without any regard for the negative impact such switch would have on that client.

Additionally, Respondent filed over 100 Notices of Lien in an attempt to grab fees from cases to which he was not

entitled. These Notices caused delay and confusion in those matters, and represented Respondent's efforts to elevate his own selfish motives over the best interests of those clients. For all of these reasons, this guideline was clearly implicated by the facts of this case, and disbarment is appropriate.

B. Standard 5.0 – Violations of Duties Owed to the Public

a. Standard 5.1 – Failure to Maintain Personal Integrity

i. Standard – 5.11 states disbarment is appropriate when a lawyer:

1. **(b)** engages in serious criminal conduct – a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft or;
2. **(f)** a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

Respondent's acts of burglarizing Mr. Barak's law firm and storage unit, and stealing the firm's safe and computer server clearly implicate both of these guidelines. These acts seriously and adversely reflect on Respondent's fitness to practice law, and particularly the theft of the law firm's server was an intentional interference with the administration of justice in that it had the potential to hobble the firm's practice entirely. Respondent confessed in a text message to committing this act. Additionally, Respondent's intentional acts of (1) forging another lawyer's signature on a filing he made with a court, (2) filing a fraudulent notice of appearance on behalf of a party opposed to him personally, and (3) filing a fraudulent confession of judgment making him personally the prevailing party in that action all clearly implicate interference with the administration of justice and reflect a distinct lack of fitness to practice. These actions were each taken with clear intent on the part of the Respondent, and caused significant injury to Mr. Barak, his firm and, indirectly, his clients. As such, disbarment is appropriate.

C. Standard 6.0 – Violations of Duties Owed to Legal System

a. Standard 6.1 – False Statements, Fraud, and Misrepresentation

- i. Standard 6.11 – states disbarment is appropriate when a lawyer with the intent to deceive the court, knowingly makes a false statement or submits a false document or improperly withholds material information and causes serious or potentially serious injury to a party or causes a significant or potentially significant adverse effect on the legal proceeding.

This Standard was implicated most clearly by Respondent's intentional filing of a notice of appearance on behalf of Mr. Barak in his suit against Respondent, and then filing a confession of judgment on behalf of Mr. Barak, in favor of Respondent. It is difficult to imagine a more brazen, intentional, dishonest or seriously damaging act that an attorney could take to deceive a court and cause injury to another. Applied to the facts of this case, this Standard clearly suggests that disbarment is appropriate.

b. Standard 6.2 – Abuse of the Legal Process

- i. Standard 6.21 – states disbarment is appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another and causes serious injury or potentially serious injury to a party or potentially serious interference with a legal proceeding.

This Standard was implicated by the Respondent's extreme harassment of Mr. Barak through the filing of over 100 notices of lien in Mr. Barak's pending cases. Such notices were filed in direct violation of an injunction obtained by Mr. Barak against Respondent to try to halt such harassment. Respondent would end up being held in contempt no less than three times for his repeated violations of this court order, and Mr. Barak would spend thousands of dollars in legal fees trying to combat Respondent's actions and restore order to the proceedings in those 100+ cases. These actions were taken by Respondent with the intention to gain fees from those cases for himself, despite the fact that he was not entitled

to same. Again, when applied to these facts, this Standard clearly suggests disbarment is appropriate.

D. Standard 7.0 – Violations of Other Duties Owed as a Professional

- i. Standard 7.1 – states Disbarment is appropriate when a lawyer intentionally engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

Again, this Standard was implicated by the facts as proven at trial. Mr. Barak testified that he suffered significant injury as the direct result of Respondent's campaign to harass Mr. Barak and enrich himself at Mr. Barak's expense and at the expense of the clients and litigants whose legal proceedings were disrupted by Respondent's interference therein. Between attorney's fees to litigate against Respondent and obtain and enforce the injunction, fees expended to undo all of Respondent's notices of lien, loss of productivity in dealing with the multiple burglaries and thefts from his firm, damage to reputation as

Respondent spread falsehoods about him – all of this caused significant harm to Mr. Barak, harm which he testified he was still incurring at the time of this trial. For these reasons, the Referee finds this Standard likewise to apply, and to support a recommendation of disbarment.

VI. AGGRAVATING AND MITIGATING FACTORS

I have considered the following aggravating and mitigating factors prior to recommending discipline:

- A. Aggravation: The Referee finds the following aggravating factors to have been established by the evidence in this trial:
 - a. Dishonest or Selfish Motive. This factor has been discussed at length above, but it is worth noting that Respondent's motives here were shown to be both dishonest and selfish.
 - b. Pattern of Misconduct. The separate but related assaults on Mr. Barak, his firm, his cases and his reputation all reflect a pattern of intentional and carefully considered harassment.
 - c. Multiple Offenses. The sheer volume of misconduct in this case, and the fact that it continued well after a Circuit Court Judge ordered Respondent to cease and desist, causes the Referee grave concern about the Respondent's fitness to

practice law. This aggravator is clearly implicated by the facts of this case.

d. Refusal to Acknowledge the Wrongful Nature of Conduct.

This is perhaps the most profoundly implicated aggravator in this case. Respondent clings to his justification for his actions with a ferocity that is quite disturbing. The Referee makes room for the fact that Respondent did have pending felonies during this trial, and did not hold any 5th Amendment considerations against Respondent. Rather, it was the volume of what Respondent did choose to say on his behalf, the pages and pages of justifications for his actions that laid all blame on Mr. Barak. He is utterly lacking in insight as to the impropriety of all that he has done here. This is perhaps best reflected in his Motion for Sanctions for Fraud upon the Court, brought on the eve of trial, and argued at the close of the Bar's evidence. Not only does Respondent fail to appreciate the depth and breadth of his misconduct, he attacks those who try to hold him accountable. For this reason especially, the Referee feels strongly that no other discipline is supported by these facts but disbarment.

B. Mitigation: The Referee finds the following mitigating factor present:

- a. Absence of Disciplinary Record. The Bar has confirmed that Respondent has not previously been subjected to any disciplinary action.

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

For all of the foregoing reasons, including the number of Rules violated, and the diversity of means by which many of the Rules were violated multiple times, the application of the Standards regarding the extent to which myriad duties were breached, the clear intentionality of Respondent's actions, the severity of harm caused to Mr. Barak and others connected to him, the presence of multiple aggravating factors and only one mitigating factor, I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

- A. Permanent Disbarment; and
- B. Entry of an order requiring Respondent to pay the reasonably incurred costs of The Florida Bar from this proceeding.

VIII. PERSONAL HISTORY, PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following information provided to me by The Florida Bar:

Personal History of Respondent:

Age: 35

Date admitted to the Bar: April 22, 2013

Prior Discipline: None

Board Certification: None

IX. STATEMENT OF COSTS AND MANNER IN WHICH COSTS

SHOULD BE TAXED

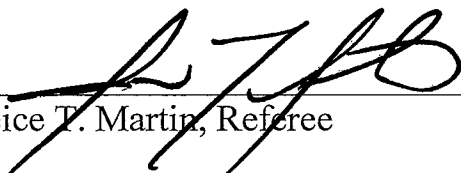
I find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs pursuant to Rule 3-7.6(q)(1)(I)	\$1,250.00
Court Reporter Fees	\$1,508.00
Bar Counsel Costs	\$ 433.18
Investigation Costs	\$ 87.00
Witness Costs	\$ 355.92

TOTAL	\$3,634.10
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It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be payable beginning thirty (30) days after the judgment has become final unless a waiver is granted, or payment is otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 16 day of April, 2019.



Janeice T. Martin, Referee

Original To:

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

Conformed Copies to:

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