

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

ARMANDO GUSTAVO
HERNANDEZ,

Respondent.

Supreme Court Case
No. SC19-1263

The Florida Bar File
No. 2018-70,123 (11B)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned Respondent, Armando Gustavo Hernandez, and files this Conditional Guilty Plea pursuant to Rule 3-7.9 of the Rules Regulating The Florida Bar.

1. Respondent is, and at all times mentioned herein was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent is 37 years old and was admitted to the Florida Bar on September 30, 2010. He has no prior discipline.
3. Respondent is currently the subject of a disciplinary proceeding, which has been assigned The Florida Bar file no. 2018-70,123 (11B) and Supreme Court case no. SC19-1263, that is pending before the Honorable Eleane Sosa-Bruzon, Referee.

4. As to Florida Bar case number 2018-70,123 (11B), there has been a finding of probable cause by the Grievance Committee.

5. The disciplinary measures to be imposed upon respondent are as follows:

- A. Six (6) month suspension; and
- B. Payment of the Bar Disciplinary Costs.

6. Respondent acknowledges that, unless waived or modified by the Court on motion of Respondent, the court order will contain a provision that prohibits respondent from accepting new business from the date of the order or opinion and shall provide that the suspension is effective 30 days from the date of the order or opinion so that respondent may close out the practice of law and protect the interest of existing clients.

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

A. Respondent joined the law firm of Rumberger, Kirk & Caldwell (RKC) as an associate in 2010 following a summer internship as a law student in 2009.

B. During his tenure with RKC, Respondent worked almost exclusively with Scott M. Sarason, administrative partner at RKC's Miami office.

C. From 2013 to 2017, Respondent represented, worked on, and referred matters to other attorneys outside of RKC, which were generated entirely through his personal relationships and unrelated to the RKC clientele.

D. From 2013 to 2017, Respondent also represented several firm members and/or employees in the same fashion as the aforementioned matters, including, but not limited to, the wife of Scott M. Sarason (his supervising partner) in a car accident matter that was handled outside of the firm; criminal matters for the son of the Miami office manager; representation of a paralegal from the Miami office in a car accident matter; and several other similar examples.

E. In or about February 2017, Respondent was approached by shareholders/partners Hillary Jacey Kaps and Scott M. Sarason regarding his handling of cases outside of his employment as an associate with the firm.

F. At that time, Respondent was given one week to withdraw from the outside cases and find competent counsel for his clients.

G. Approximately two months after the February 2017 meeting, Respondent took a deposition of a corporate representative in one of the outside cases he was handling. Although Respondent now admits his wrongful conduct, at the time, he felt compelled to take the deposition to protect the

best interests of his client. The next day, when asked by Mr. Sarason if he had attended the deposition, Respondent denied doing so.

H. When confronted with the deposition transcript in or around May 2017, Respondent acknowledged his attendance and lack of truthfulness.

I. Mr. Kaps and Mr. Sarason kept the information regarding Respondent's handling of cases outside the firm among themselves and Respondent for several months. Mr. Kaps and Mr. Sarason did not initially report these allegations to RKC's Executive Committee.

J. At Respondent's request, the issue of Respondent's handling of outside cases was then brought to the attention of the firm's Executive Committee through Mr. Francis Sheppard, managing partner at RKC's Orlando headquarters office.

K. Consequently, on or about May 26, 2017, Mr. Sheppard and Respondent discussed Respondent's involvement in outside cases via video conference. At that time, Respondent stated that he only took a small number of pro bono cases for family and friends. When asked about a handful of specific cases, Respondent denied receiving fees in those cases.

L. Following that meeting, Respondent deleted, exported, and altered files related to the outside cases that he had stored on RKC's computer system in a personal folder.

M. In June 2017, Respondent met again with Mr. Sheppard and another executive committee member, Charles Mitchell. At that meeting, Respondent acknowledged his participation and involvement in the outside cases. Respondent further admitted to deleting and exporting computer records from his cases.

N. Following the June 2017 meeting, Respondent delivered copies to Mr. Shepherd of all retainers between Respondent and his clients, which made no reference to the firm.

O. During the course of the firm's investigation, Respondent admitted that he received fees from his participation and involvement in cases outside the firm.

P. On June 19, 2017 Respondent was terminated from his position within the firm.

Q. Respondent requested and was granted a meeting with the firm and traveled from Miami to Orlando to meet with Mr. Sheppard and express his apologies and remorse for his misconduct.

R. None of the outside cases were firm cases, and none of the clients of the outside cases sought representation of the firm. Respondent voluntarily paid the firm all fees Respondent earned from the outside cases.

S. Respondent has an absence of a prior disciplinary record; made a timely good faith effort to make restitution and made full and free disclosures to The Bar and had a cooperative attitude toward these proceedings. Respondent also enjoys good character and reputation and has expressed remorse for his misconduct.

T. Misappropriation of client funds are not at issue.

U. The misconduct did not prejudice Respondent's clients.

V. By reason of the foregoing facts, Respondent admits that he has violated Rule 4-8.4(c) A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule; and 4-4.1(a) In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.

8. The Florida Bar has approved this proposed plea in the manner required by Rule 3-7.9.

9. If this plea is not finally approved by the referee and the Supreme Court of Florida, then it shall be of no effect and may not be used by the parties in any way.

10. Respondent agrees to eliminate all indicia of Respondent's status as an attorney on social media, telephone listings, stationery, checks, business cards office signs or any other indicia of Respondent's status as an attorney, whatsoever. Respondent will no longer hold himself out as a licensed attorney until otherwise reinstated to the practice of law.

11. 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:

Administrative fee

Rule 3-7.6(o)(1)(I)\$ 1,250.00

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 shall pay interest on any unpaid costs at the statutory rate. Respondent further agrees not to attempt to discharge the obligation for payment of the Bar's costs in any future proceedings, including but not limited to, a petition for bankruptcy. Respondent shall be deemed delinquent and ineligible to practice law pursuant to Rule 1-3.6 if the cost judgment is not satisfied within 30 days of the final court order, unless deferred by the Board of Governors of The Florida Bar.

12. 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 also evidence of good faith and fiscal responsibility. Respondent understands that failure to pay the costs of this proceeding or restitution may reflect adversely on any reinstatement proceedings or any other bar disciplinary matter in which Respondent is involved.

13. Respondent, who is represented by counsel in this matter, acknowledges that this document is tendered freely, voluntarily and without fear threat or coercion.

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

Dated this 16 day of October, 2019.



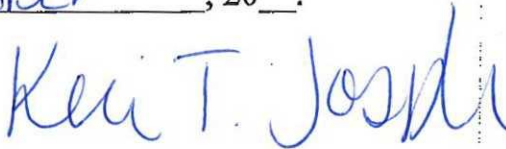
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Dated this 19 day of October, 2019.



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Dated this 17 day of October, 20 .



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