

**IN THE SUPREME COURT OF FLORIDA**  
(Before a Referee)

THE FLORIDA BAR,  
  
Complainant,

Supreme Court Case  
No. SC08-803

vs.

The Florida Bar File  
No. 2007-70,456(11L)

SANFORD DAVID BOSEM,  
  
Respondent.

\_\_\_\_\_ /

**REFEREE'S REPORT RECOMMENDING DIVERSION**  
**TO A PRACTICE AND PROFESSIONALISM**  
**ENHANCEMENT PROGRAM**

I.     **RECOMMENDATION:** The Florida Bar, Complainant, and Sanford David Bosem, Respondent, through counsel, Kevin P. Tynan, Esq., have submitted a signed Conditional Agreement for Diversion to a Practice and Professionalism Enhancement Program. Pursuant to Rules Regulating The Florida Bar 3-5.3, the referee accepts this agreement and recommends diversion to a referral to Florida Lawyer's Assistance, Inc., for an evaluation and, if recommended, treatment under the terms and conditions stated herein.

II.    **PURPOSE AND PROGRAMS WHICH ARE RECOMMENDED:**

The purpose of diversion is to assist the Respondent in the future avoidance of the situations summarized below. The following is recommended:

Respondent will contact Florida Lawyers Assistance, Inc., at 1-800-282-8981 to schedule an evaluation within thirty (30) days upon entry of the final order by the Supreme Court of Florida approving the diversion recommendation. Within sixty (60) days of the final order, respondent will provide the Bar's headquarters office with proof that Respondent has scheduled an evaluation. If treatment is recommended, Respondent will enter into a rehabilitation contract with Florida Lawyers Assistance, Inc., within thirty (30) days of the recommendation for treatment. Respondent shall follow all recommendations by Florida Lawyers Assistance, Inc., during the entire diversion period.

**III. NARRATIVE SUMMARY:** On May 8, 2005, Respondent was present at Club Space, a night club located at 34 N.E. 11<sup>th</sup> Street, in the City of Miami. While Respondent was in the men's bathroom of the club, a security officer observed him involved in a hand to hand exchange of a plastic baggy containing suspected narcotics. The baggy dropped to the floor and was collected by the security officer.

The security officer escorted Respondent outside the club where he was met by Sergeant J. Lazcano of the City of Miami Police Department. Respondent was placed under arrest, whereupon the Sergeant collected a red pill container from Respondent's hand.

The contents of the red pill container were tested and found to contain cocaine in a white powdery form. Pills inside the container did not test positive for illegal substances. The plastic baggy from the bathroom was not tested. The matter was ultimately nolle prossed, when the security officer failed to appear for deposition on more than one occasion.

IV. **COSTS:** I find that the following were reasonably incurred by The Florida Bar as costs in these proceedings and should be assessed against Respondent:

Administrative costs . . . . .	\$1,250.00
Staff investigator's costs.....	\$ 664.62
<b>TOTAL:</b>	<b>\$ 1,914.62</b>

V. **FEES:** The respondent shall pay the fee of \$750.00 for the referral to Florida Lawyer's Assistance, Inc.

Additional Fees Which May Be Required:

FLA, Inc. Registration Fee	\$250.00 (if required)
FLA, Inc. Monitoring Fee	\$100.00 per month (if required)

VI. **EFFECT OF DIVERSION:** Diversion to a referral to Florida Lawyer's Assistance, Inc. shall close this disciplinary file without the 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.

**VII. EFFECT OF FAILURE TO COMPLETE DIVERSION PROGRAM:**

Failure of the Respondent to successfully complete all requirements of the practice and professionalism enhancement program to which the Respondent is referred shall result in entry of a finding of minor misconduct, predicated on the facts set forth in section III, above, with the requirement that the admonishment for minor misconduct be administered by the personal appearance of the respondent before the Board of Governors of The Florida Bar.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2008.

---

**Honorable Jacqueline Schwartz**  
**Referee**

Copies furnished to:

Kevin P. Tynan, Attorney for Respondent  
Jennifer R. Falcone Moore, Bar Counsel  
Kenneth L. Marvin, Staff Counsel