

THE FLORIDA BAR,

Complainant,

v.

Case No. SC12-523
TFB File No. 2012-00,030 (2B)

PAUL ALAN LEHRMAN,

Respondent.

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REPORT OF THE REFEREE ACCEPTING CONSENT JUDGMENT

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 March 19, 2012, The Florida Bar filed its Notice of Determination of Guilt against Respondent in these proceedings. A case management conference was held on May 29, 2012. On this same date, an “Order Setting Final Sanction Hearing” for 1:00 p.m. on Friday June 8, 2012 was issued. This order also required the parties to submit for review any proposed settlements no later than

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Monday June 4, 2012. On or about June 4, 2012, the parties entered into a

conditional guilty plea for consent judgment and submitted the appropriate documents via e-mail at 4:12 p.m.

On Thursday June 7, 2012 a hearing was conducted during which the Respondent and Bar Counsel appeared telephonically from The Florida Bar Headquarters. During this hearing Respondent was duly sworn and acknowledged having signed the “Conditional Guilty Plea For Consent Judgment” and the “Stipulation For entry of Consent Judgment”. Respondent further acknowledged his full understanding of the terms of his conditional plea and affirmatively waived his right to the “Final Sanction Hearing” scheduled for 1:00 p.m. on Friday June 8, 2012.

The conditional guilty was accepted and resulted in this report. All of the aforementioned pleadings, responses thereto, exhibits received in evidence, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. **FINDINGS OF FACT**

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the

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jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary Of Case. On April 22, 2011, Respondent pled guilty to 3 felony counts of filing false income tax returns for the years 2004, 2005 and 2006, in violation of Title 26, United States Code, Section 7206(1). The charges were the result of Respondent's failure to report income, consisting of approximately \$85,541 in attorney's fees, received from the City of Apalachicola, over a 3 year period. On July 13, 2011, Respondent was sentenced to 6 months in prison, followed by one year supervised release, a fine of \$10,000 and restitution to the Internal Revenue Service of \$23,832. As of July 2011, respondent paid the restitution and fees in full.

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar: 4-8.4(b) (A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects) and Rule 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation) of the Rules Regulating The Florida Bar.

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IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

5.11(a) Disbarment is appropriate when a lawyer is convicted of a felony under applicable law.

7.2 Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Smith, 650 So.2d 980 (Fla. 1995) - conviction for tax evasion and causing statement to be made to Federal Election Commission warrants three-year suspension.

The Florida Bar v. Chosid, 500 So.2d 150 (Fla. 1987) - making and subscribing a false income tax return warrants three year suspension and thereafter until proof of rehabilitation.

The Florida Bar v. Hosner, 536 So.2d 188 (Fla. 1988) - conviction of mail fraud and felony charges of assisting in preparation of false income tax returns warrant disbarment.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

A. 3 year suspension and

B. Payment of Bar costs.

As to mitigation, I considered letters from Respondent's doctors and colleagues that suggest a deterioration of Respondent's ability to properly address his responsibilities during the years of the false tax returns due to emotional problems, physical or mental impairment and a lengthy and complicated divorce.

More specially, I considered the following 9.32 mitigating factors:

- (a) absence of a prior disciplinary record;
- (c) personal or emotional problems;
- (d) timely good faith effort to make restitution;
- (g) character or reputation;
- (h) physical or mental disability or impairment;
- (k) imposition of other penalties or sanctions.

VII. **PERSONAL HISTORY AND PAST DISCIPLINARY RECORD**

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following personal history of Respondent, to wit:

Age: 59

Date admitted to the Bar: November, 1978

Prior Discipline: No prior discipline.

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VIII. **STATEMENT OF COSTS AND MANNER IN WHICH COSTS
SHOULD BE TAXED**

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

Administrative Costs	<u>1,250.00</u>
TOTAL	\$1,250.00

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within thirty days of said judgment becoming final, Respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 11th day of June, 2012.

William F. Williams

Honorable William F. Williams, III
Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to The Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, Supreme Court Building, 500 South Duval Street, Tallahassee, Florida 32399-1927, and that copies were furnished by regular U.S. Mail to Respondent, Paul Alan Lehrman, whose record bar address is PO Box 12242, Tallahassee, FL 32317-2242 and 2578 Canvasback Court, Tallahassee, FL 32308; Kenneth Lawrence Marvin, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300 and Allison Carden Sackett, Bar Counsel, The Florida Bar, Tallahassee Branch Office, 651 East Jefferson Street Tallahassee, Florida 32399-2300 on this 11th day of June, 2012.

William F. Williams

Honorable William F. Williams, III