

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

SANDRA CORACELIN,

Respondent.

Supreme Court Case
No. SC20-1473

The Florida Bar File
No. 2021-50,483(17A)OSC

RESPONSE TO ORDER TO SHOW CAUSE

The Petitioner, SANDRA CORACELIN, through her undersigned counsel, files this Response to this Court's October 8, 2020 Order to Show Cause directed to the allegations raised in The Florida Bar's Petition for Order to Show Cause and states:

Background

1. The Respondent, Sandra Coracelin, was previously suspended from The Florida Bar for three years pursuant to a Supreme Court order dated December 23, 2015. The suspension at issue was made *nunc pro tunc* the effective date of a related emergency suspension ordered on August 18, 2015 and as such, the Petitioner has now been suspended for approximately five years. See SC15-1474

2. On October 8, 2019, the Respondent filed her first petition for reinstatement. See SC19-1722. That action was resolved by way of a voluntary

dismissal which was approved by the Court on May 12, 2020. The voluntary dismissal was occasioned by the very same issues raised in the Bar's current petition and it was hoped by the Respondent that there would be an ability to resolve those issues either through settlement or the ordinary grievance process. That did not occur and to the Respondent's knowledge no action has been presented to a grievance committee for review or consideration and a reasonable offer of settlement was rejected by the Bar.

3. There being no known ongoing disciplinary proceeding or review by a grievance committee notwithstanding that the Bar was aware of these allegations since January 29, 2020 (the date of their Motion to Dismiss in the first reinstatement proceeding) and being unable to have constructive settlement negotiations, the Respondent on September 18, 2020, filed her second petition for reinstatement and that matter is currently pending before a West Palm Beach referee, who was the referee on the earlier petition for reinstatement and the underlying suspension case. See SC20-1372.

Overview of Allegations

4. The Bar presents two types of allegations in its petition for order to show cause ("Petition"). First, it makes claims that the Respondent failed to take certain actions to fully comply with her suspension and orders related thereto; incorrectly asserts that she held client trust monies while suspended and contends

that the Respondent either practiced law and/or held herself out as being able to do so. While the Respondent disagrees with most of these allegations, they are properly before this Court via a contempt proceeding.

5. However, the more serious aspersions cast by the Bar do not sound in contempt or a claimed violation of her order of suspension and are therefore improperly before this Court. The procedural rules for the ordinary processing of grievance matters are crystal clear – before the initiation of a proceeding before in this Court there must first be a finding of probable cause by a grievance committee. See R. Regulating Fla. Bar 3-3.2(b); *Fla. Bar v. G.B.T.*, 399 So. 2d 357 (Fla. 1981). While there are exceptions to the ability to directly file a cause of action in this court (i.e. emergency suspensions, felony convictions and the like) none of those exceptions apply herein except as they would relate to a violation of the suspension order. As such the Bar should be directed to take these matters, described in more detail below, to a grievance committee for a full investigation and resolution as is required by R. Regulating Fla. Bar 3-3.3(b)

The claimed violations of the suspension order

A. Allegation of receipt and expenditure of trusts funds for one real estate transaction.

6. Prior to her suspension from the practice of law, the Respondent was able to complete an occasional real estate transaction wherein she personally

purchased and sold real property for a profit, either by herself or with others. This was not the practice of law and she did so as a business partner and not the lawyer for individuals who might be a business partner in that transaction. The transaction at issue herein was the sole personal real estate transaction the Respondent completed prior to her sworn statement by the Bar in the first reinstatement proceeding. TFB Ex. 7 at p. 57, l. 19-20.

7. In paragraphs 22 through 25 of the Petition the Bar explains that on February 2, 2018, the Respondent deposited the sum of \$55,000.00 into her personal checking account and later expended most of that sum within four days of its deposit.

8. Prior to her sworn statement by the Bar she had no idea that she would be asked questions concerning this transaction and provided her best recollection of such transaction at her sworn statement. TFB Ex. 7, p. 54-57. However, it is clear that her testimony reflect that this was a personal business transaction with other friends.

9. In an e-mail post her statement, the Respondent through counsel provided the following explanation of the transaction in an e-mail to Bar counsel:

The 55K RE transaction - The property in question was owned by an individual who also is an officer of Trust Financial. He approached my client about several properties This was one. National Premiere and RGL Management are one of the same individuals running the companies. National Premiere came in with the money. It wasn't a loan but a joint investment. National Premiere

came with the property, my client found the property. National Premiere sent her the money and she paid Trust Financial. The owner remained 5085 Monterey LLC. because the money was for the property and the business. She estimates about \$2500 in gross payment to her on the transaction.

10. None of the foregoing information was shared in the Bar's petition.

11. Attached hereto as Exhibit A is a true and correct copy of a verified statement from Ron Laurent, who confirms his involvement in this real estate transaction; that he treated the Respondent as his business partner and not his lawyer in this transaction and that all monies related to the transaction were appropriately disbursed.

12. The Bar's reliance on *Fla. Bar v. Wolf*, 21 So. 3d 15 (Fla. 2009) is misplaced. In *Wolf* a lawyer was not reinstated to the practice of law when it was established, that under the guise of a "consulting" business, that lawyer continued to practice law. *Id.* at 16-17. The only reference to the handling of monies while this lawyer was suspended concerned the following:

In another instance, one of Wolf's consulting clients gave Wolf checks, made payable to Wolf, so that Wolf could use the money to retain a lawyer in good standing to represent the consulting client. Wolf deposited the checks into his business account on which a lien was later placed. These funds were certainly in the nature of trust funds because they did not belong to Wolf. *Id.* at 18.

In the case at hand, the Respondent was a principal in the business transaction and had not accepted monies that were unrelated to that transaction or were for a third person (a lawyer's) fee but were to be used for that transaction.

13. The Bar's position that a personal business transaction creates an attorney trust obligation take to its illogical conclusion could mean that a suspended lawyer working in a fast food restaurant could never work as a cashier as the money being collected did not belong to that lawyer. Even the new, very serious changes to R. Regulating Fla. Bar 3-6.1 does not prevent a lawyer from operating a nonlawyer business, it only restricts fiduciary relationships and trust transactions.

The Respondent's dormant trust account

14. At the time of her suspension, the Respondent did have a trust account at Chase Bank with the total funds in said account of just under \$2,000.00. See TFB Ex. 4, p. 61, l. 11 – p. 62, l. 16. Nowhere in the Bar's petition do they contest this fact or present any evidence that the minimal balance in this bank account were client funds.

15. In October of 2015, two months after the effective date of her suspension and two months after the Respondent closed her office, two fraudulent wire transactions occurred wherein someone claiming to be Shelly Norton received \$982.37 and someone claiming to be Ursula Obrien received \$958.33, which

transactions removed \$1,940.70 from the Bank. These individuals were not the Respondent's clients and she is unaware of their true identities. TFB Ex. 4, p. 60.

16. The Respondent testified that she was completely unaware of the twin thefts by a third party at the time that they occurred and when she did try address the issue with the bank they advised it was too late to do anything about it. TFB Ex. 4, p. 62-65.

17. While previously making different assertions about this issue in the prior reinstatement proceeding, the Bar seems to limit its concern that the Respondent may not have submitted a copy of the Court's emergency suspension order to the bank at the time that it was entered and that she did not provide a copy of such letter to the Bar at the time of her suspension.

18. When first asked about this, some four plus years later, the Respondent did not have a clear recollection of the specific actions taken at the time of her suspension, but she was represented by a very experienced Bar defense counsel. See the attachment to TFB Ex. 8. Since her statement she has been unable to locate any documentary proof that the required letter was sent to Chase and therefore is uncertain if she completely complied with this requirement.

19. Respectfully, this one error does not warrant a contempt citation or the permanent disbarment sought by the Bar.

Social Media

20. The Bar points out that the Respondent's personal Facebook Account, as well as one for her closed law firm, and a personal LinkedIn account had a designation that she was an attorney during the time frame of her suspension.

21. At her January 2020 deposition, the Respondent testified that due to her guardian ad litem work she had not used her Facebook account for some time (TFB Ex 4, 9. 47-49) and was unaware that it was more than a personal Facebook account. That said, the documents presented by the Bar on this point indicate that there was an open account for the Respondent personally and her law firm. TFB Ex. 9. However, this exhibit also documents no postings later than June of 2015, prior to her suspension, and it appears that a search for postings on Facebook indicate that she shared a post from the Polk County Sherriff's office on October 9, 2015 or 2016 (the date is blurry on the copy provided by the Bar). There is no other indication of Facebook activity throughout the suspension period, except that the accounts remained open at the time of her deposition.

22. The LinkedIn account, which was also dormant, also had an indication that the Respondent was an attorney and that was fixed prior to her deposition.

23. Respectfully, the failure to remove the references to her as an attorney on these two social media platforms, was not willfully contumacious or warranting permanent disbarment.

Employment Affidavits

24. During her suspension the Respondent primarily worked in the family business and later a construction company, as is noted in her petition for reinstatement. However, the Respondent did perform some very isolated periodic employment for three distinct lawyers/law firms. Due to the very limited nature of the employment, the Respondent mistakenly failed to list same on her initial petition with the Bar.

25. Despite the fact that the employment was extremely limited (one law firm approximately \$2,5000 over a three year period and the second not much more), the Respondent failed to provide the required employment affidavits to the Bar.

26. At the time that she was reminded of her employment with Verna Popo, she immediately completed the required affidavits and submitted them to the Bar. As to the employment with Jason Weaver, the Bar's petition in this action was the first time that Respondent was reminded of her short employment by him and she is preparing the appropriate affidavits for submission to the Bar.

27. Respectfully, the failure to report these two short term periodic law firm jobs was inadvertent and normally would not form the basis of a contempt proceeding and clearly does not warrant a permanent disbarment.

Contact with clients

28. The rule that place restrictions on the employment of suspended or disbarred lawyers was greatly revised this year with an effective date of July 27, 202. The Bar's petition fails to point out with any specificity the dates and particulars of the client contact at issue. See R. Regulating Fla. Bar 3-6.1

29. The current version of R. Regulating Fla. Bar 3-6.1(d)(2) clearly states that "Individuals subject to this rule must not have contact (including engaging in communication in any manner) with any client."

30. The older version of the rule, applicable to any claims made by the Bar reads:

Individuals subject to this rule must not have direct contact with any client. Direct client contact does not include the participation of the individual as an observer in any meeting, hearing, or interaction between a supervising lawyer and a client.

31. The Bar does not explain, in its petition, that the great majority of the communications at issue were in the presence of a lawyer or were supervised by a lawyer. See TFB Ex. 10, the Affidavit of Verna Popo at para. 19 and 20. This affidavit also references the Respondent's conversations with 3 distinct individuals who were prior clients of the Respondent but at the time of the conversation were not a client of any law firm as they were seeking a bankruptcy attorney and the Respondent referred them to Ms. Popo.

32. The Bar also goes to great efforts to assert that the Respondent engaged in the actual practice of law because she attended several real estate closings, the majority of which had a lawyer present at the closing. The Bar's position fails to take into account that paralegals and nonlawyers routinely conduct real estate closings to make sure all documents are properly executed. What these nonlawyer cannot do is explain the legal ramifications of these documents and the Bar is unable to support such a claim as it did not occur. In fact Ms. Popo's affidavit (TFB Ex. 10) documents that the Respondent did act as the closing agent on two distinct occasion but does not claim that the Respondent practiced law on either occasion and Popo also asserts that she did not consider the purchasers to be her clients.

Contact with a witness

33. The most serious charge leveled by the Bar concerning the Respondent's telephone call with Ms. Popo, who had been subpoenaed by the Bar and was her long time friend, should be presented to a grievance committee for investigation and resolution as there has yet to be a finding of probable cause preventing this claim from being directly filed with the Court. See R. Regulating Fla. Bar 3-3.2(b); *Fla. Bar v. G.B.T.*, 399 So. 2d 357 (Fla. 1981).

34. While there is no doubt that Ms. Popo and Respondent had two telephone calls prior to Ms. Popo attending her sworn statement at the Bar's Office and that the second call was primarily to apologize about the tone and tenor of the

first phone call. Unfortunately, Ms. Popo's recollection of the first conversation is different from the Respondent's. It is possible that Ms. Popo misunderstood Respondent's intentions or that Respondent did a poor job of communicating during that first phone call. That said it is Respondent's heartfelt belief that she was not attempting to instruct a witness to provide the Bar with false or incomplete information.

35. Respectfully, the resolution of this particular matter will be resolved on credibility and should be submitted to a grievance for a full and complete investigation or sent to a referee for a resolution of the disputed facts.

Claim of Misrepresentation

36. Again this is a matter best left for resolution by a grievance committee and is presented to this Court without a requisite finding of probable cause. See R. Regulating Fla. Bar 3-3.2(b); *Fla. Bar v. G.B.T.*, 399 So. 2d 357 (Fla. 1981).

37. At issue are negligent omissions from the Respondent's first petition for reinstatement and her attempt to correct them; first at a deposition where she had no forewarning that the topic would be raised and provided her best recollections at that moment in time; second by quickly filing the form employment affidavits almost immediately after said deposition, which affidavits may have needed some refinement based upon a complete review of all facts, but the issue of client contact

was not as crystal clear as it is now under the new version of R. Regulating Fla. Bar 3-6.1.

38. Respectfully, the resolution of this particular matter will be resolved on credibility and should be submitted to a grievance for a full and complete investigation or sent to a referee for a resolution of the disputed facts.

Sanction

39. As the Bar seeks to have the Respondent found in contempt and permanently disbarred, comment must be made on the disproportionate sanction sought by the Bar.

40. This Court, in *Fla. Bar v. Kelly*, 813 So.2d 85 (Fla. 2002), stated that in selecting an appropriate discipline certain fundamental issues must be addressed. They are: (1) Fairness to both the public and the accused; (2) sufficient harshness in the sanction to punish the violation and encourage reformation; and (3) the severity must be appropriate to function as deterrent to others who might be tempted to engage in similar misconduct. Respectfully, the Bar's sanction proposal does not meet these criteria and only seeks to punish the Respondent excessively without encouraging reformation or rehabilitation.

41. This Court has consistently held that disbarment is an extreme measure of discipline that should be used only when that lawyer "has demonstrated an attitude or course of conduct that is wholly inconsistent with approved professional

standards” and therefore there must be a showing that this person “should never be at the bar.” *Fla. Bar v. Moore*, 194 So. 2d 264, 271 (Fla. 1967). In a less dated decision, the Florida Supreme Court affirmed that disbarment is “the extreme measure of discipline” that should “never be decreed where any punishment less severe . . . would accomplish the end desired.” *Fla. Bar v. Shoureas*, 892 So. 2d 1002, 1006 (Fla. 2004). The Florida Supreme Court has even stated that disbarment is reserved for those individuals who are “beyond redemption.” *Fla. Bar v. Turk*, 202 So. 2d 848 (Fla. 1967).

42. The conduct in this case is not demonstrative of “an attitude or course of conduct that is wholly inconsistent with approved professional standards” which would require disbarment, let alone the ultimate sanction of a permanent disbarment.

43. This Court has not had an opportunity to consider aggravating or mitigating criteria which could be developed by a referee proceeding.

44. The Bar’s argument on sanction is that disbarment is the only sanction that is found for violation of a suspension order but in *Fla. Bar v. Frederick*, 756 So. 2d 79 (Fla. 2000) the lawyer was suspended for 91 days for having unsupervised communication with a client and also had trust account violations and had sought an agreement from the complainant not to contact the Bar. This is not the only suspension case for violating a suspension order. See for example *Fla. Bar v. Wasserman*, 654 So. 2d 905 (Fla. 1995) [60 day suspension].

Conclusion

45. The Bar raises a series of factual issues in an attempt to have this Court grant a serious disciplinary sanction, while denying the Petitioner the opportunity to fully present evidence and testimony at an evidentiary hearing.

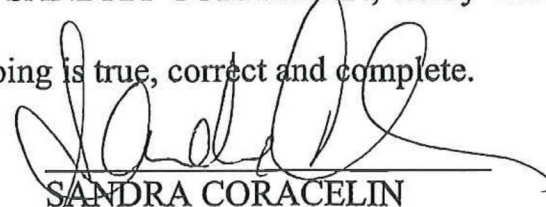
46. This testimony and evidence would fully flesh out the above issues, provide an opportunity for a Referee or a grievance committee, and ultimately this Court, to ascertain the Petitioner's credibility and her defenses to these claims.

47. Further, the burden of proof in Bar proceedings is clear and convincing evidence and the Bar bears the burden of proving each of their allegations by that standard and to the extent that there is conflicting evidence, without live testimony, the Bar fails to meet that burden.

WHEREFORE, for all of the foregoing reasons, the Petitioner, SANDRA CORACELIN, respectfully requests that the Bar's requested relief be denied or in the alternative that this matter be forwarded to a Referee for resolution of the disputed facts and to make recommendations on sanction if warranted.

VERIFICATION

The Petitioner, SANDRA CORACELIN, hereby affirms, under penalty of perjury, that the foregoing is true, correct and complete.


SANDRA CORACELIN
CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a copy of the foregoing was furnished via electronic mail only to Linda Gonzalez, Bar Counsel, The Florida Bar, 1300 Concord Terrace, Suite 130, Sunrise, FL 33323 (lgonzalez@flabar.org; dmacha@flabar.org) and to Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2300 (psavitz@floridabar.org) on this 23 day of October, 2020.

Respectfully submitted,

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By: 

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IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Supreme Court Case No. SC
Case No. SC19-1722

IN RE:

PETITION FOR REINSTATEMENT

The Florida Bar File
No. 2020-50,270(15A-FRE)

OF SANDRA CORACELIN,

Petitioner.

_____ /

VERIFIED STATEMENT

1. My name is Ron Laurent. I make this verified statement based upon my own personal knowledge.

2. I have known the Petitioner, Sandra Coracelin, for more than 20 years and know that she was suspended from the practice of law and unable to represent clients or otherwise practice law.

3. In either late January of 2018 or early 2018, I became aware, through Ms. Coracelin, of the possibility of being involved in a real estate purchase and later sale where I could make a profit on said transaction by investing funds towards that purchase.

4. I agreed to participate in this business venture, as did two other individuals. We provided funds to Ms. Coracelin, not as our lawyer but, as a co-purchaser with Ms. Coracelin in this business venture.



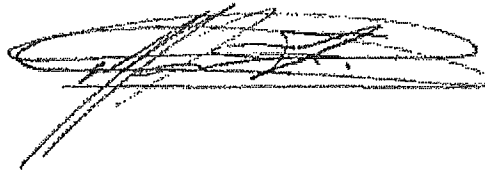
5. It is my understanding that all funds received for the transaction were properly applied to the transaction and that collectively we were able to purchase and then sell the property at issue, with a small profit for each of us.

6. During this transaction Ms. Coracelin did not represent me or anyone else as a lawyer, but instead she was our business partner in the transaction.

VERIFICATION

Under penalty of perjury, I hereby confirm that the foregoing statement is true, correct and complete.

February 4th, 2020

A handwritten signature in black ink, consisting of several overlapping, stylized strokes, positioned to the right of the date.