

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JAMES C. PETERSON,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2020-30,592 (7A)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, James C. Peterson, 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 currently the subject of a Florida Bar disciplinary matter which has been assigned The Florida Bar File No. 2020-30,592 (7A).

3. As to The Florida Bar File No. 2020-30,592 (7A), there has been a finding of probable cause by the grievance committee.

4. Respondent is acting freely and voluntarily in this matter and tenders this plea without fear or threat of coercion. Respondent is represented by counsel in this matter.

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

A. Public reprimand to be administered by publication.

B. Respondent shall attend Trust Accounting Workshop within six months of the date of the order of the Supreme Court of Florida. Respondent will pay the \$750.00 fee for his attendance at Trust Accounting Workshop prior to attendance.

C. A two-year period of probation with the following conditions:

i. Respondent agrees to retain, at respondent's expense, the services of a certified public accountant acceptable to The Florida Bar to review respondent's trust account records on a monthly basis during the term of probation. Quarterly statements shall be prepared by the certified public accountant for review by The Florida Bar. The quarters are March 31, June 30, September 30 and December 31.

- ii. Statements shall specify whether respondent is in compliance with the Rules Regulating Trust Accounts and shall include the monthly reconciliations of respondent's trust accounts, copies of the bank statements of respondent's trust accounts, and a list of clients with the individual client trust account balances. Respondent is responsible for the submission of the quarterly statements to The Florida Bar.
- iii. Respondent will pay a monthly monitoring fee of \$100.00 to The Florida Bar. All monthly monitoring fees must be remitted no later than the end of each respective month in which the monitoring fee is due. All fees must be paid to the bar's headquarters office in Tallahassee. Failure to pay shall be deemed cause to revoke probation.

D. Payment of the bar's disciplinary costs.

6. The following allegations and rules provide the basis for respondent's guilty plea in this matter:

A. Respondent was employed as an associate attorney at DeLoach and Peterson, PLLC where his father and grandfather were partners in the law firm. In February of 2015, respondent became a

signatory on the DeLoach and Peterson, PLLC bank accounts after his father, Sidney Peterson, suffered a stroke.

B. DeLoach and Peterson, PLLC maintained two trust accounts at Wells Fargo Bank for the period of March 1, 2015 through March 31, 2020. One account, labeled as an escrow account, was used for client matters. This account was not registered with The Florida Bar Foundation and was not clearly labeled or designated as a “trust account.” The second account, opened in April 2016, was labeled as a trust account, and was used for real estate closings.

C. The bar’s audit revealed that as of December 31, 2019, there was a shortage of more than \$600,000.00 in the law firm’s “escrow” account that was utilized as an IOTA trust account for client matters. The shortage in the “escrow” account was corrected in February 2020 after Sidney Peterson, respondent’s father, deposited funds to correct the shortage. However, Sidney Peterson failed to notify the bar of the shortage at the time it occurred, the cause of the shortage or the replenishment of funds to the escrow account.

D. On March 10, 2020, Sidney Peterson signed a Petition for Disciplinary Revocation and the Supreme Court of Florida granted it on June 11, 2020. Respondent had no knowledge of or participation

in the conduct Sidney Peterson referenced in his petition for disciplinary revocation. Nevertheless, as a signatory on the account, respondent was responsible for ensuring the trust accounts were maintained in substantial minimum compliance with the Rules Regulating The Florida Bar and that the minimum required trust accounting procedures were followed. The bar requested monthly comparisons for the “escrow” account from both Sidney Peterson and respondent for the audit period. Sidney Peterson did not provide any monthly comparisons and respondent provided only three prepared by Sidney Peterson. The firm did not have a written trust account plan for either of the two trust accounts as required under Chapter 5 of the Rules Regulating The Florida Bar.

E. Once the bar’s investigation of Sidney Peterson came to light, respondent and his brother started a new law firm, created a written trust account plan for the new law firm, and hired a CPA knowledgeable with Chapter 5 of the Rules Regulating The Florida Bar to ensure that the new firm’s trust records would be maintained in compliance with the rules. In addition, respondent removed Sidney Peterson as a signatory from the DeLoach and Peterson, PLLC account used for real estate closings while it remained open to allow

for outstanding checks to clear and the transference of client funds held in the “escrow” account to the new firm’s IOTA trust account.

7. The following Rules Regulating The Florida Bar provide the basis for the discipline to be imposed in this matter: 4-1.15 [Safekeeping Property; Compliance with Trust Accounting Rules]; 5-1.1(a)(1) [Trust Accounts; Trust Account Required; Location of Trust Account; Commingling Prohibited]; 5-1.1(b) [Trust Accounts; Application of Trust Funds or Property to Specific Purpose]; 5-1.1(g)(4) [Trust Accounts; Interest of Trust Accounts (IOTA) Program]; 5-1.2(b)(1) [Trust Accounting Records and Procedures; Minimum Trust Accounting Records]; 5-1.2(c)(1) [Trust Accounting Records and Procedures; Responsibility of Lawyers for Firm Trust Accounts and Reporting]; and 5-1.2(d)(1)(B) [Trust Accounting Records and Procedures; Minimum Trust Accounting Procedures].

8. In mitigation, respondent has no prior disciplinary history [Florida’s Standards for Imposing Lawyer Sanctions 3.3(b)(1)]; he did not display a dishonest or selfish motive [Florida’s Standards for Imposing Lawyer Sanctions 3.3(b)(2)]; respondent made timely good faith efforts to rectify the consequences of the misconduct by removing Mr. Sidney Peterson from the trust account and by hiring a CPA [Florida’s Standards for Imposing Lawyer Sanctions 3.3(b)(4)]; respondent was cooperative and

made full and free disclosures to the bar [Florida's Standards for Imposing Lawyer Sanctions 3.3(b)(5)]; respondent demonstrated interim rehabilitation [Florida's Standards for Imposing Lawyer Sanctions 3.3(b)(10)]; and, he has expressed remorse [Florida's Standards for Imposing Lawyer Sanctions 3.3(b)(12)]. In aggravation, respondent has substantial experience in the practice of law, admitted to The Florida Bar in 2010 [Florida's Standards for Imposing Lawyer Sanctions 3.2(b)(9)].

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

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

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 \$6,153.05. 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.

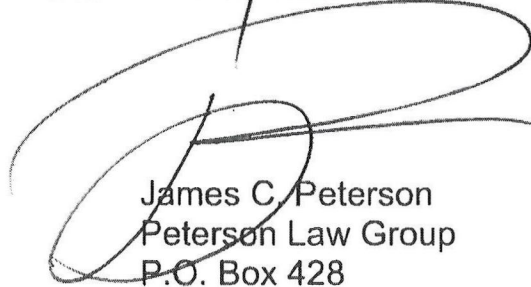
Respondent shall be deemed delinquent and ineligible to practice law pursuant to Rule 1-3.6 if the cost judgment is not satisfied within 30 days of the final court order, unless deferred by the Board of Governors of The Florida Bar.

12. Respondent acknowledges the obligation to pay the costs of this proceeding (and any agreed restitution) 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 will reflect adversely on any other bar disciplinary matter in which respondent is involved.

13. If this plea is approved, and restitution is owed, if the person to whom restitution is owed cannot be located after a diligent search, respondent shall execute an affidavit of diligent search and provide same to The Florida Bar and shall pay the full amount of the restitution to the Clients' Security Fund of The Florida Bar within 30 days of the date of the affidavit of diligent search.

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

Dated this 26th day of February, 2021.



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Dated this 1st day of March, 2021.



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Dated this 1st day of March, 2021.

A handwritten signature in black ink that reads "Karen Clark Bankowitz". The signature is written in a cursive, flowing style.

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