

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

STEVEN JAY KIRSCHNER,
Respondent.

Supreme Court Case
No. SC19-1452

The Florida Bar File
No. 2018-30,244(19B)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, Steven Jay Kirschner, 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 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.
3. As to The Florida Bar File No. 2018-30,244(19B), there has been a finding of probable cause by the grievance committee.
4. The disciplinary measures to be imposed upon respondent are as follows:

A. Sixty-day suspension from the practice of law with automatic reinstatement;

B. Respondent shall attend The Florida Bar's Trust Accounting Workshop. Respondent shall pay the \$750.00 fee associated with the workshop;

C. Payment of the disciplinary costs as set forth more fully below; and,

D. Upon automatic reinstatement to the practice of law, respondent shall be placed on probation for a period of two years 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 monthly during the term of probation. Quarterly statements shall be prepared by the certified public accountant for review by The Florida Bar's Staff Auditor at the Orlando Branch Office. Respondent is responsible for submission of the quarterly reports to the Orlando office of The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801 and to The Florida Bar, Lawyer Regulation Headquarters, c/o Melissa M. Mara, CP, FRP, 651 E. Jefferson Street, Tallahassee, Florida 32399. The quarters are March 31, June 30, September

30 and December 31. Statements shall specify whether respondent is in compliance with the Rules Regulating Trust Accounts and shall include the monthly reconciliations, copies of the bank statements of respondent's trust accounts and a list of clients with the individual client trust account balances. The reports are due 15 days following the end of each quarter; and,

ii. Respondent will pay a quarterly monitoring fee of \$100.00 to The Florida Bar. All quarterly monitoring fees must be remitted no later than the end of each respective quarter 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.

5. 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. 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. During the pendency of his suspension, respondent will not

hold himself out as a licensed attorney.

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

A. In October 2017, Dr. Samuel F. Siddiqui filed a complaint with The Florida Bar alleging that respondent failed to honor a letter of protection issued by respondent's client, Ms. Bajrangi, while she was represented by former counsel.

B. The Florida Bar initiated a compliance audit of respondent's trust account which covered a period from May 2016 to June 2018.

C. Respondent hired a Certified Public Accountant (CPA) familiar with the Rules Regulating The Florida Bar to review the trust account and perform a compliance audit.

D. According to the CPA's review and the bar's audit, as of June 30, 2018, respondent was still holding the disputed \$3,318.17 in trust in connection with the Bajrangi settlement.

E. Respondent was not authorized by Ms. Bajrangi to release any funds to Dr. Siddiqui.

F. The audit revealed that respondent failed to maintain his trust account in substantial minimum compliance with the Rules Regulating The Florida Bar.

G. The audit revealed small shortages of brief duration in respondent's trust account.

H. Respondent made settlement disbursements before some clients signed the settlement statements. For example, in the Klimov matter, respondent disbursed his fees on December 20, 2017 while Mr. Klimov did not sign the settlement statement until February 26, 2018.

I. On occasion, respondent commingled attorney and client funds in one account. For example, in or around August 2016, a \$1,000.00 settlement check was inadvertently deposited into respondent's operating account which caused a shortage in the trust account before the funds were transferred to the trust account.

J. Respondent's wife, his bookkeeper and assistant, was primarily responsible for the maintenance of the trust account.

K. The errors in the maintenance of respondent's trust account were the result of actions taken by his nonlawyer bookkeeper.

L. Respondent's wife was not properly trained or supervised in the maintenance of a trust account in substantial compliance with the rules.

M. Further, during the audit period, respondent failed to maintain fully compliant trust records. There were omissions of required information in the receipts and disbursements journal and on some client ledgers.

Respondent failed to maintain the front and back of all canceled checks that included all endorsements, data, and tracking information.

N. Some of respondent's client ledgers had negative balances caused by careless bookkeeping. For example, although the funds were in the trust account, the client ledger for Mr. Llama showed a negative balance of \$675.00 for more than a year.

O. Some of respondent's client ledgers did not contain the reasons for all transactions.

P. Respondent did not obtain the signatures of all participating lawyers on some closing statements.

Q. During the audit period respondent failed to timely perform many monthly comparisons and monthly reconciliations.

R. Respondent was under the mistaken belief that the trust account was being maintained in substantial compliance with the rules because the monthly comparisons that he reviewed were balanced.

S. The CPA hired by respondent revised respondent's receipts and disbursements journal and client ledgers and brought them into substantial compliance.

T. Further, respondent's CPA performed, reviewed and amended all monthly reconciliations and comparisons and brought them into

substantial compliance.

U. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-1.5(f)(5) [Fees and Costs for Legal Services; Contingent Fees]; 4-1.15 [Safekeeping Property; Compliance With Trust Accounting Rules]; 5-1.1(a)(1) [Trust Accounts; Nature of Money or Property Entrusted to Attorney]; 5-1.2(b) [Trust Accounting Records and Procedures; Minimum Trust Accounting Records]; and, 5-1.2(d) [Trust Accounting Records and Procedures; Minimum Trust Accounting Procedures].

7. In mitigation, respondent had no dishonest or selfish motive [Florida's Standards for Imposing Lawyer Sanctions 9.32(b)]; respondent worked with his CPA and bookkeeper to correct the technical violations, and respondent's office has modified their procedures to ensure that they obtain all required signatures on closing statements before disbursing settlement proceeds [9.32(d), (j)]; respondent has good character and reputation within the legal community [9.32(g)]; he has expressed remorse [9.32(l)]; and, his prior discipline (admonishment for minor misconduct in 1993) is remote [9.32(m)]. In aggravation, respondent has substantial experience in the practice of law. He was admitted in 1985 [9.22(i)].

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. 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 \$5,384.92. 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.

11. 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 may reflect adversely on any reinstatement proceedings or any other bar disciplinary matter in which respondent is involved.

12. This Conditional Guilty Plea for Consent Judgment fully complies

with all requirements of the Rules Regulating The Florida Bar.

Dated this 3 day of February 2020.



STEVEN JAY KIRSCHNER

Respondent

1555 Howell Branch Road, Suite C220

Winter Park, Florida 32789-1172

(407) 740-5225

Florida Bar No. 472506

steven@kandklawfirm.com

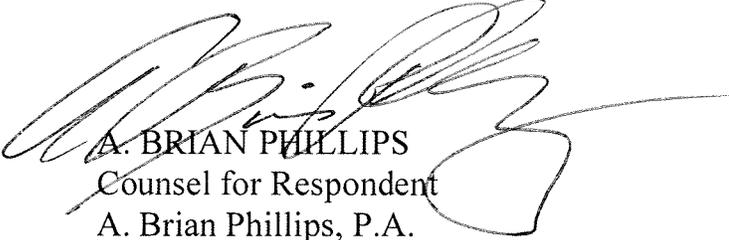
Dated this _____ day of February 2020.

with all requirements of the Rules Regulating The Florida Bar.

Dated this ____ day of February 2020.

STEVEN JAY KIRSCHNER
Respondent
1555 Howell Branch Road, Suite C220
Winter Park, Florida 32789-1172
(407) 740-5225
Florida Bar No. 472506
steven@kandklawfirm.com

Dated this 3rd day of February 2020.



A. BRIAN PHILLIPS
Counsel for Respondent
A. Brian Phillips, P.A.
912 Highland Avenue
Orlando, Florida 32803-3205
(407) 872-0777
Florida Bar No. 67113
brian.phillips@phillips-law-firm.com

Dated this 3rd day of February 2020.

A handwritten signature in black ink, appearing to read "Kenneth H. P. Bryk". The signature is fluid and cursive, with the first name "Kenneth" being the most prominent.

KENNETH H. P. BRYK
Bar Counsel
The Florida Bar
Orlando Branch Office
The Gateway Center
1000 Legion Place, Suite 1625
Orlando, Florida 32801-1050
(407) 425-5424
Florida Bar No.164186
kbryk@floridabar.org
orlandooffice@floridabar.org