

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

JOHN ARTHUR LEKLEM,

Respondent.

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Supreme Court Case  
No. SC19-159

The Florida Bar File  
Nos. 2017-30,972 (9B),  
2018-30,137 (9B)

**REPORT OF 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 January 31, 2019, The Florida Bar filed its Complaint against Respondent as well as its Request for Admissions in these proceedings. 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 jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary of Case.

1. In The Florida Bar File Number 2017-30,972 (9B), respondent did not diligently handle a legal matter for a property owners' association involving a declaratory judgment against owners who did not pay their assessments. Respondent did not maintain clear and adequate communication with the association representative, despite repeated requests for case updates.

2. In The Florida Bar file number 2018-30,137 (9B), the bar's audit of respondent's trust account revealed he did not maintain the minimum required trust accounting records and did not follow the minimum required trust accounting procedures. The audit was initiated as a result of a dishonored check for respondent's fees. Respondent immediately corrected the matter. The bar's audit did not find evidence of misappropriation and no client funds were endangered.

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar:

4-1.3 [Diligence]; 4-1.4(a), (b) [Communication]; 5-1.1(a)(1), (b), (f) [Trust Accounts]; and 5-1.2(b), (d) [Trust Accounting Records and Procedures].

#### IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

##### 4.1 Failure to Preserve the Client's Property

4.13 Public reprimand is appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.

##### 4.4 Lack of Diligence

4.43 Public reprimand is appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client and causes injury or potential injury to a client.

##### 7.0 Violations of Other Duties Owed as a Professional

7.3 Public reprimand is appropriate when a lawyer negligently 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.

##### 9.22 Aggravating Factors

(i) substantial experience in the practice of law.

##### 9.32 Mitigating Factors

(a) absence of prior disciplinary record;

(b) absence of a dishonest or selfish motive;

(c) personal or emotional problems;

(d) timely good faith effort to make restitution or to rectify consequences of misconduct;

(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

(g) character or reputation; and

(l) remorse.

## V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Bankowitz, No. SC18-1268 (Fla. Aug. 23, 2018)

(unpublished disposition) – Pursuant to a Conditional Guilty Plea for Consent Judgment, the attorney received a public reprimand by publication, restitution to the client, attendance at Ethics School, and payment of the disciplinary costs. The attorney failed to diligently pursue a client's post-conviction matter, failed to maintain adequate communication with the client, and failed to have office procedures in place to alert him to long periods of inactivity in a client's matter to trigger him to check to see if something needs to be done. The attorney previously received a public reprimand by court order dated September 4, 2015, for failing to remit the IRS funds that he had withheld from his employees' wages.

The Florida Bar v. Johnson, No. SC17-1271 (Fla. Jan. 4, 2018) (unpublished disposition) – Pursuant to a Conditional Guilty Plea for Consent Judgment, the

attorney received a public reprimand and a referral to FLA, Inc. The attorney also was ordered to pay restitution to two clients. A judge before whom the attorney was to appear advised the bar that she had missed court appearances and could not be located. Once the bar located the attorney, she admitted that she was struggling with personal stress and needed to withdraw, for the time being, from further legal work and court appearances. The attorney had no prior discipline, was suffering from personal or emotional problems, had no dishonest or selfish motive, fully cooperated with the bar, made a good faith effort to rectify the consequences of her misconduct and was remorseful. There were no aggravating factors.

The Florida Bar v. Lanigan, No. SC17-195 (Fla. Aug. 3, 2017) (unpublished disposition) - Public reprimand and a two-year period of probation to include Ethics School and restitution pursuant to a Conditional Guilty Plea for Consent Judgment. The bar received two insufficient funds notices pertaining to overdrafts in the attorney's trust accounts. The bar's audit revealed several technical trust account violations but no evidence of misappropriation. The attorney also neglected three separate client matters and failed to clearly explain the nature and basis of his legal fees. In aggravation, the attorney was an experienced practitioner. In mitigation, he had no prior disciplinary history, had no dishonest or selfish motive, made a good faith timely effort to rectify the consequences of his

misconduct, fully cooperated with the bar, had a good reputation and was remorseful.

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. Public reprimand to be administered by publication.
- B. Respondent will refund the amount of \$2,500.00 to the St. Johns River Park Property Owners Association within ninety (90) days from the date of the entry of the order of the Supreme Court of Florida accepting this Conditional Guilty Plea for Consent Judgment.
- C. Payment of the disciplinary costs.
- D. Two-year period of probation with the following conditions:
  - i. Respondent will participate actively in the program offered by Florida Lawyers Assistance, Inc., by signing a rehabilitation contract with that organization within thirty (30) days of the order of the Supreme Court of Florida, or of acceptance of the report of minor misconduct or report of diversion. Respondent shall follow all recommendations by Florida Lawyers Assistance, Inc., during the entire probation period.

ii. Respondent will pay a Florida Lawyers Assistance, Inc., registration fee of \$250.00 and a probation monitoring fee of \$100.00 per month to The Florida Bar's headquarters office. 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.

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: 72

Date admitted to the Bar: November 19, 1976

Prior Discipline: None

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

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

Administrative Costs	\$1,250.00
Audit Costs	\$624.90
Investigative Costs	\$562.48
Court Reporters' Fees	\$1,492.65

TOTAL	\$3,930.03
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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 (30) 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 19<sup>th</sup> day of July, 2019.

  
KENNETH FRIEDLAND  
Referee

Original To:

Clerk of the Supreme Court of Florida; Supreme Court Building; 500 South Duval Street, Tallahassee, Florida, 32399.

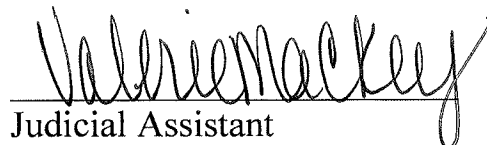
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Interim Staff Counsel, [asackett@floridabar.org](mailto:asackett@floridabar.org)

this 19<sup>th</sup> day of July, 2019

  
Judicial Assistant