

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case No.

v.

The Florida Bar File No.
2020-00,033(2B)

ROBERT JOHN FOY,
Respondent.

_____ /

FORMAL COMPLAINT FOR RECIPROCAL DISCIPLINE

The Florida Bar, complainant, files this Complaint against Robert John Foy, respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is, and at all times mentioned in the complaint was, a member of The Florida Bar, admitted on September 22, 2006, and is subject to the jurisdiction of the Supreme Court of Florida.
2. In addition to membership in The Florida Bar, respondent is a member of the Tennessee State Bar, and otherwise subject to the jurisdiction of the Supreme Court of Tennessee.
3. This is a reciprocal discipline action, based on the Petition for Discipline dated November 7, 2019, and the Order of Enforcement dated August 17, 2020, which imposed a suspension from the practice of law for a period of 7 years, with 5 years served as an active suspension, and the remainder served on probation. Copies are attached hereto as Composite Exhibit "A."

4. Respondent's Tennessee suspension was based on the following conduct:

A. On or about September 16, 2015, respondent agreed to represent Jo Nelson in a personal injury case which resulted from a car accident.

B. Upon information and belief, Ms. Nelson's case was settled on or about February 9, 2018, for \$40,000.00.

C. On or about March 14, 2018, respondent deposited the settlement check into his trust account.

D. Respondent knowingly and intentionally did not send a portion of the settlement funds to the Centers for Medicare and Medicaid Services.

E. Respondent knowingly and intentionally did not send a portion of the settlement funds to Ms. Nelson's chiropractor's office to settle her chiropractor's bill until Ms. Nelson filed a disciplinary complaint against respondent.

F. Respondent did not provide any settlement funds to Ms. Nelson until the disciplinary complaint was made.

G. Respondent's bank records reveal that after he deposited Ms. Nelson's \$40,000.00 settlement check into his trust account on March 14,

2018, the balance of respondent's trust account fell to \$5,960.16 on April 18, 2019.

H. Respondent transferred \$17,500.00 from his trust account to his operating account between the months of March and April 2018.

I. On or about April 11, 2018, respondent sent a check in the amount of \$56,304.00 to another client as a final distribution of an estate.

J. Respondent's trust account, thereafter, remained below \$18,000.00 until December 21, 2018.

K. On or about May 17, 2019, respondent submitted a copy of what he purported to be his trust account monthly statements from "March 2018 to present" to the Tennessee Disciplinary Board.

L. The trust account monthly statements provided by respondent were for the months of March 2018 until April 2019.

M. The trust account documents provided by respondent indicated that Ms. Nelson's funds at issue remained, and were maintained, in his trust account for the duration of March 2018 until April 2019.

N. On or about June 3, 2019, Tennessee disciplinary counsel subpoenaed respondent's trust account records from Franklin Synergy Bank.

O. In response to the issued subpoena, respondent's bank produced an entirely different set of bank records in relation to respondent's trust account.

P. The bank records submitted by respondent to the Board were not accurate and were altered.

Q. Respondent knowingly, and with intent to deceive the Board, altered the bank records he provided to the Board.

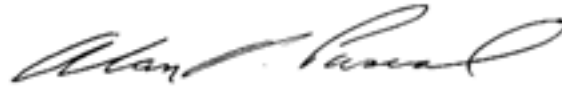
R. Respondent knowingly and intentionally provided false documents to the Board in connection with a disciplinary matter.

S. Based on the foregoing, respondent has engaged in unethical conduct in violation of the following Tennessee Rules of Professional Conduct: 1.15 (Safekeeping Property and Funds), 3.4 (Fairness to the Opposing Party and Counsel), 4.1 (Truthfulness and Candor in Statements to Others), 8.4(a) (Misconduct), and 4-8.4(c) (Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation).

5. By operation of R. Regulating Fla. Bar 3-4.6, the Petition for Discipline and the Order of Enforcement from the Supreme Court of Tennessee shall be considered as conclusive proof of such misconduct in this disciplinary proceeding.

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.

Respectfully submitted,



Alan Anthony Pascal, Bar Counsel
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300
(850) 561-5845
Florida Bar No. 961663
apascal@floridabar.org



Patricia Ann Toro Savitz, Staff Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
(850) 561-5839
Florida Bar No. 559547
psavitz@floridabar.org

CERTIFICATE OF SERVICE

I certify that this document has been e-filed with the Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided via email to Robert John Foy, bobfoy@foylawgroup.com, and that a copy has been furnished by United States Mail via certified mail No. 7017 3380 0000 1082 7379, return receipt requested to Robert John Foy, whose record bar address is 620 N. Walnut Street, Murfreesboro, Tennessee 37130-2854, and via email to Alan Anthony Pascal, Bar Counsel, apascal@floridabar.org, on this 3rd day of November 2020.



Patricia Ann Toro Savitz
Staff Counsel

**NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY
EMAIL ADDRESS**

PLEASE TAKE NOTICE that the trial counsel in this matter is Alan Anthony Pascal, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, (850) 561-5845, apascal@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar, 651 E Jefferson Street, Tallahassee, Florida 32399-2300, psavitz@floridabar.org.

MANDATORY ANSWER NOTICE

RULE 3-7.6(h)(2), RULES REGULATING THE FLORIDA BAR,
PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.



**BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

10 CADILLAC DRIVE, SUITE 220
BRENTWOOD, TENNESSEE 37027
TELEPHONE: (615) 361-7500
(800) 486-5714
FA24: (615) 367-2480
E-MAIL: ethics@tbpr.org
Website: www.tbpr.org

RELEASE OF INFORMATION
RE: ROBERT JOHN FOY, BPR #025919
CONTACT: JOSEPH K. BYRD
BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

August 17, 2020

RUTHERFORD COUNTY LAWYER SUSPENDED

On August 17, 2020, the Supreme Court of Tennessee entered an order suspending Robert John Foy from the practice of law for a period of seven (7) years, with five (5) years active, and the remainder on probation pursuant to Tennessee Supreme Court Rule 9, Section 12.2. Mr. Foy was further ordered to obtain an evaluation with the Tennessee Lawyers Assistance Program and engage the services of a Practice Monitor. Mr. Foy must pay the Board of Professional Responsibility's costs and expenses and court costs within ninety (90) days.

Mr. Foy converted client settlement funds to his own business and personal use. He also failed to promptly pay third-party lien holders from the settlement funds. During the investigation of this matter, Mr. Foy falsified bank records to prevent discovery of his misappropriation. In addition, Mr. Foy failed to keep client funds and estate funds in his trust account. Mr. Foy reimbursed the estate and his clients in full for the funds he misappropriated.

Mr. Foy executed a conditional guilty plea acknowledging his conduct violated Rules of Professional Conduct (RPC) 1.15 (safekeeping property); 3.4 (fairness to the opposing party and counsel); 4.1 (truthfulness and candor in statements to others); and 8.4 (a) and (c), (misconduct).

Mr. Foy must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

Foy 3050-4 rel.doc

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

08/17/2020

Clerk of the
Appellate Courts

IN RE: ROBERT JOHN FOY, BPR #025919
An Attorney Licensed to Practice Law in Tennessee
(Rutherford County)

No. M2020-01079-SC-BAR-BP
BOPR No. 2019-3050-4-TL

ORDER OF ENFORCEMENT

This matter is before the Court upon a Petition for Discipline filed against Robert John Foy on November 7, 2019; upon a Supplemental Petition for Discipline filed January 24, 2020; upon entry of a Conditional Guilty Plea filed by Mr. Foy on May 15, 2020; upon an Order Recommending Approval of Conditional Guilty Plea entered on May 20, 2020; upon the denial of the first Guilty Plea by the Board on June 12, 2020; upon entry of a second Conditional Guilty Plea filed by Mr. Foy on June 12, 2020; upon an Order Recommending Approval of Conditional Guilty Plea entered on July 13, 2020; upon service of the Order Recommending Approval of Conditional Guilty Plea by the Executive Secretary of the Board on July 13, 2020; upon consideration and approval of the second Conditional Guilty Plea by the Board on July 22, 2020; and upon the entire record in this cause.

From all of which the Court approves the Order of the Hearing Panel and adopts the Hearing Panel's Order Recommending Approval of Conditional Guilty Plea as the Court's Order.

On July 3, 2019, Mr. Foy was temporarily suspended by this Court, pursuant to Tenn. Sup. Ct. R. 9, § 12.3 (Case No. M2019-01187-SC-BPR-BP). Mr. Foy has neither sought nor been granted dissolution of the temporary suspension.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

- (1) Pursuant to Tenn. Sup. Ct. R. 9, § 12.2, Robert John Foy is hereby suspended from the practice of law for a period of seven (7) years, with five (5) years served as an active suspension, and the remainder served on probation, subject to the following conditions of probation:

- (a) Mr. Foy shall continue his current TLAP monitoring agreement during the term of his suspension and probation and follow any and all recommendations of TLAP. Further, Mr. Foy shall execute, as needed, an appropriate authorization for TLAP to communicate with the Board regarding his monitoring agreement.
 - (b) Mr. Foy, at his cost, shall engage a practice monitor who shall be selected and approved in accordance with Tenn. Sup. Ct. R. 9, § 12.9(c). The practice monitor shall meet with Mr. Foy monthly and assess his case load, timeliness of tasks, adequacy of communication with his clients, and his accounting procedures. The practice monitor shall provide a monthly written report of Mr. Foy's progress to Disciplinary Counsel.
 - (c) Mr. Foy shall attend the Board's trust accounting workshop.
 - (d) During the period of active suspension and probation, Mr. Foy shall incur no new complaints of misconduct that relate to conduct occurring during the period of suspension and probation and which results in the recommendation by the Board that discipline be imposed.
- (2) In the event Mr. Foy fails to meet any condition of probation, the probation may be revoked pursuant to Tenn. Sup. Ct. R. 9, § 14.2.
 - (3) Prior to seeking reinstatement, Mr. Foy must have met all CLE requirements; have remitted all outstanding registration fees and outstanding professional privilege taxes, including those due from the date of this suspension until the date of reinstatement; and have remitted all court costs and Board costs in this matter.
 - (4) Additionally, Mr. Foy shall comply in all aspects with Tenn. Sup. Ct. R. 9, §§ 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.
 - (5) Further, the Order of Temporary Suspension entered on July 3, 2019, in M2019-01187-SC-BAR-BP is hereby dissolved.
 - (6) Pursuant to Tenn. Sup. Ct. R. 9, § 28.1, this Order shall be effective upon entry.
 - (7) Pursuant to Tenn. Sup. Ct. R. 9, § 31.3(d), Mr. Foy shall pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$1,371.05 and shall pay to the Clerk of this Court the costs

incurred herein, within ninety (90) days of the entry of this Order, for all of which execution may issue if necessary.

- (8) The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

PER CURIAM