

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

CHRIS R. BORGIA,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File Nos.

2019-70,393 (11D)

2019-70,474 (11D)

2019-70,494 (11D)

2019-70,590 (11D)

COMPLAINT

The Florida Bar, complainant, files this Complaint against Chris R. Borgia, respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is and was at all times mentioned herein a member of The Florida Bar admitted on December 19, 2002 and is subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent resided and practiced law in Miami-Dade County, Florida, at all times material.
3. The Eleventh Judicial Circuit Grievance Committee D found probable cause to file this complaint pursuant to Rule 3-7.4, of the Rules Regulating The Florida Bar, and this complaint has been approved by the presiding member of that committee.

COUNT I – THE FLORIDA BAR FILE NO. 2019-70,393 (11D)

4. Respondent represented Ms. Michelle Maziarz with respect to a claim for social security disability benefits. Respondent charged a \$299.00 costs deposit to obtain medical records.

5. Respondent met with the complainant and her family members approximately two weeks before the scheduled hearing. At that time, respondent recommended the family obtain numerous medical records or reports to present at the hearing.

6. The family did not believe there was sufficient time to obtain all of the requested medical records and reports, and asked respondent to continue the matter.

7. Respondent did not appear on the scheduled hearing date. Although respondent asserts he contacted the judicial assistant to request a continuance of the hearing date, he admits he never received confirmation that the judge granted his request. Significantly, the judge dismissed the claim on that date, noting that respondent and the client/claimant failed to appear, and that respondent had not contacted her office or attempted to reschedule the case.

8. Respondent's efforts to vacate the order of dismissal were not successful. Thereafter, he failed to file an appeal within the sixty day time period

provided. Respondent asserts the client terminated his representation prior to the expiration of the sixty day period.

9. At the request of her successor counsel, Ms. Maziarz wrote to respondent and requested that he contact the Social Security Administration in order to withdraw from the representation and to waive his claim to any fee associated with an award of benefits in her case.

10. Respondent failed to acknowledge this request, nor did he provide the requested waiver and notice of withdrawal. The bar then forwarded Ms. Maziarz's request a second time and asked respondent to comply, or to provide the legal basis for his refusal to do so. To date, respondent has not filed the waiver of fees and notice of withdrawal.

11. Moreover, respondent admitted that he did not place the costs deposit for medical records in his trust account. Respondent did not use the \$299.00 for the intended purpose of obtaining medical records needed for his client's hearing, and did not return the cost deposit to his client.

12. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), 4-1.2 (Objective and Scope of Representation), 4-1.3 (Diligence), 4-1.4 (Communication), 4-1.5 (Fees and Costs for Legal Services), and 5-1.1 (Trust Accounts) of the Rules Regulating The Florida Bar.

COUNT II – THE FLORIDA BAR FILE NO. 2019-70,474 (11D)

13. Ms. Rose Alexandre hired respondent to represent her in a claim for social security disability benefits. At the time the representation commenced, the matter was well advanced and a hearing officer had already been appointed. Accordingly, respondent agreed that he would cap his fees received from any award of benefits at \$6,000.00.

14. The matter proceeded to hearing and Ms. Alexandre was awarded benefits. In September 2018, the Social Security Administration (SSA) still had not paid respondent any of the statutory fees. Not wanting to wait any longer, respondent requested that Ms. Alexandre pay him the agreed upon \$6,000.00 from monies she recently received from SSA. Respondent promised that he would submit to SSA a waiver of any claim to fees, so that SSA would then distribute those funds directly to Ms. Alexandre.

15. Ms. Alexandre paid respondent the requested \$6,000.00, but he did not provide the waiver of his fees to SSA as he had promised. SSA has confirmed that, as of July 2020, respondent still had not presented any waiver of his fees to SSA, and it was still holding over \$15,000.00 of funds in expectation of paying respondent. Accordingly, respondent's failure to submit the waiver resulted in these funds, properly due and owed to his client, being withheld from her award of benefits for the past two years.

16. Upon seeing a reference to the money being held for attorney fees in the SSA transcripts, Ms. Alexandre made numerous attempts to contact respondent, all of which went unanswered.

17. By reason of the foregoing, respondent has violated Rule 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules Regulating The Florida Bar.

COUNT III – THE FLORIDA BAR FILE NO. 2019-70,494 (11D)

18. On March 14, 2018, Ms. Sonia Agostini retained respondent to represent her in a claim for social security disability benefits. At the time he was retained, respondent required payment of a costs deposit in the amount of \$299.00 to obtain future medical records.

19. At her initial consultation with respondent, Ms. Agostini provided all of her original medical records. Respondent promised to copy these records and return them to her within the week, but he failed to do so.

20. Between March 2018 and October 2018, Ms. Agostini made numerous attempts to set up a meeting with respondent, so that they could fill out forms sent to her by the Social Security Administration (SSA). Respondent continuously put off any meeting, and/or failed to respond to such requests.

21. In October 2018, Ms. Agostini learned that respondent was ineligible to practice law in Florida due to a delinquency. Ms. Agostini terminated

respondent's representation, citing his failure to respond to her, his failure to obtain and provide any medical records to SSA on her behalf, and his ineligibility to practice law.

22. Ms. Agostini hired new counsel. She then wrote to respondent and requested that he contact SSA in order to withdraw from the representation and to waive his claim to any fee associated with an award of benefits in her case. She also demanded the return of her original medical records in his possession, and the \$299.00 deposit she paid for obtaining future medical records, since no such records were obtained.

23. Respondent failed to acknowledge this request, nor did he provide the requested waiver and notice of withdrawal.

24. Respondent admitted that he did not place the \$299.00 costs deposit for medical records in a trust account. He did not use the funds for the intended purpose of purchasing medical records needed for the SSA claim. Although he promised to return the costs deposit to his client, he had not yet done so, even months into the pendency of the bar's disciplinary investigation.

25. The bar again forwarded Ms. Agostini's requests and asked respondent to either comply or provide his legal basis for refusing to do so. On August 8, 2019, respondent returned the cost deposit to his client via CashApp, but failed to provide the waiver and notice of withdrawal.

26. The bar reiterated the request for respondent to provide the waiver of fees and notice of withdrawal, and respondent did finally produce same on August 11, 2019.

27. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), 4-1.2 (Objective and Scope of Representation), 4-1.3 (Diligence), 4-1.4 (Communication), and 5-1.1 (Trust Accounts) of the Rules Regulating The Florida Bar.

COUNT IV – THE FLORIDA BAR FILE NO. 2019-70,590 (11D)

28. Respondent represented Ms. Rocio Pinero in a claim for social security disability benefits. Respondent also persuaded Ms. Pinero to retain him to pursue a petition for bankruptcy on her behalf. Ms. Pinero paid respondent the required \$299.00 costs deposit to obtain future medical records in the disability claim case, and \$1,500.00 to file the bankruptcy petition.

29. Towards the end of 2016, respondent began to neglect Ms. Pinero's case. He stopped responding to phone calls, emails and text messages, or responded only with excuses for his delay in moving forward.

30. Ms. Pinero was required to obtain and pay for all of her medical records and documentation on her own, and she supplied these to the SSA hearing officer as well as to respondent. Respondent did appear at the hearing, but was

unprepared to argue her case. Despite his lack of preparation, Ms. Pinero was awarded disability benefits.

31. Thereafter, Ms. Pinero was unable to reach respondent at any of his known contact numbers or addresses. He failed to return all attempts at communication, and did not take any action regarding her bankruptcy petition.

32. Ms. Pinero was required to hire successor counsel. She sent certified letters to respondent at two known addresses, requesting a full refund of the \$1,500.00 fee she paid in the bankruptcy case, as well as the return of her documents submitted to respondent in these two cases, including copies of her driver's license, social security card, medical records, bank and credit card records, bills, etc. Respondent failed to acknowledge or respond to either of these letters. To date he has not issued a refund for the bankruptcy case, nor returned any of the documents provided to him by Ms. Pinero.

33. Moreover, respondent admitted that he did not place the \$299.00 costs deposit for medical records in a trust account. He did not use the funds for the intended purpose of purchasing medical records needed for the SSA claim. Respondent has not refunded any portion of the \$299.00 costs deposit in this case.

34. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.1 (Competence), 4-1.2 (Objective and Scope of Representation), 4-1.3 (Diligence), 4-1.4 (Communication), 4-1.5

(Fees and Costs for Legal Services) and 5-1.1 (Trust Accounts) of the Rules Regulating The Florida Bar.

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



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CERTIFICATE OF SERVICE

I certify that this document has been efiled with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided via email to Chris R. Borgia, Respondent, at crborgia@gmail.com; and that a copy has been furnished by United States Mail via certified mail No. 7017 3380 0000 1082 8192, return receipt requested to Chris R. Borgia, whose record bar address is 4000 Ponce De Leon Blvd., Suite 470, Coral Gables, FL 33146-1432; and via email to Jennifer R. Falcone, Bar Counsel, jfalcone@floridabar.org, on this 31st day of August, 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 Jennifer R. Falcone, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Miami Branch Office, 444 Brickell Avenue, Rivergate Plaza, Suite M-100, Miami, Florida 33131-2404, (305) 377-4445 and jfalcone@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to 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.