

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

HOWARD DAVID FRIEDMAN,

Respondent.

Supreme Court Case
No. SC19-1422

The Florida Bar File
No. 2019-30,470(19B)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, Howard David Friedman, 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 in this matter.

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

- A. Public reprimand by publication; and,
- B. Payment of disciplinary costs.

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

A. On or about January 19, 2019, The Honorable Jeffrey L. Ashton was invested into an open judicial seat following a campaign where respondent was his opponent.

B. Judge Ashton was the former State Attorney for the Ninth Judicial Circuit of Florida from in or about 2013 to 2017.

C. Respondent's wife, Annette Schultz, worked as an Assistant State Attorney before and during Judge Ashton's tenure as State Attorney.

D. In 2003, Schultz was diagnosed with cancer and was granted a leave of absence by the prior State Attorney for the Ninth Judicial Circuit Lawson L. Lamar. Approximately one year later, Schultz returned to full time employment at the Office of the State Attorney with certain accommodations.

E. Approximately ten years later, in or about 2013, Schultz received sub-standard evaluations from the Office of the State Attorney.

F. On or about July 16, 2014, Schultz was notified that she was being terminated from the Office of the State Attorney and her last day of employment would be August 15, 2014.

G. After her termination from the Office of the State Attorney, in or about 2015, Schultz opened a private law practice.

H. In 2016, Schultz sued the Office of the State Attorney for wrongful termination after the exhaustion of her administrative remedies.

I. Thereafter, Schultz's suit against the Office of the State Attorney was settled.

J. In or about December 2017, respondent filed to run for an open Circuit Judge seat in the Ninth Judicial Circuit as Judge Ashton's opponent.

K. At the outset of respondent's judicial campaign, respondent distributed a campaign brochure and made statements that suggested, or specifically indicated, that while Judge Ashton was the State Attorney, he wrongfully fired respondent's wife after she got sick with cancer.

L. Respondent used photographs in his campaign brochures with a photograph of respondent and Schultz in a hospital bed. Respondent included a caption next to the photograph, "JEFF ASHTON WRONGFULLY FIRED MY WIFE AFTER SHE GOT SICK WITH CANCER."

M. Respondent omitted any reference to the passage of eleven years between Schultz's cancer diagnosis and her termination from employment at the Office of the State Attorney.

N. Through these omissions, respondent inadvertently created the appearance that State Attorney Jeffrey Ashton terminated Schultz due to her cancer diagnosis.

O. Wherefore, by reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar and Canons of the Code of Judicial Conduct:

i. 4-8.2(a) A lawyer shall not make a statement with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office;

ii. 4-8.2(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of Florida's Code of Judicial Conduct;

iii. 4-8.4(a) A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

iv. 4-8.4(d) A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice; and,

v. **Code of Judicial Conduct, Canon 7, A(e)(ii)** All judges and Candidates ... shall not: ... knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent

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

6. 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.

7. 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 \$1,601.47. 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.

8. 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

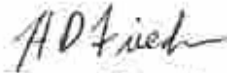
proceeding or restitution may reflect adversely on any reinstatement proceedings or any other bar disciplinary matter in which respondent is involved.

9. 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.

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

11. In mitigation, respondent has no prior disciplinary history [Florida Standards for Imposing Lawyer Sanctions 9.32(a)]. During the time period in question, respondent was experiencing significant personal and emotional issues due to his wife's serious health issues and subsequent death [Florida Standards from Imposing Lawyer Sanctions 9.32(c)]. Respondent has cooperated fully with the bar's disciplinary proceedings and displayed a cooperative attitude toward the proceedings [Florida Standards from Imposing Lawyer Sanctions 9.32(e)]. Respondent enjoys a good reputation and good character in the community [Florida Standards from Imposing Lawyer Sanctions 9.32(g)]. Respondent is remorseful [Florida Standards from Imposing Lawyer Sanctions 9.32(l)].

Dated this 31st day of January 2020.



Howard David Friedman
Respondent
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Dated this 30th day of January 2020.



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Dated this 30th day of January 2020.



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