

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

LUIS FERNANDEZ,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2015-70,272 (111)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned Respondent, Luis Fernandez, 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 currently the subject of a Florida Bar disciplinary matter which has been assigned The Florida Bar File No. 2015-70,272 (111). A finding of probable cause has been made by Eleventh Judicial Circuit Grievance Committee "I."
3. Respondent is acting freely and voluntarily in this matter, and tenders this Plea without fear or threat of coercion. Respondent is not represented in this matter.

4. The disciplinary measures to be imposed upon Respondent are as follows:

A. Public Reprimand;

B. Respondent will undergo an office procedures and record-keeping analysis by and under the direction of the Diversion/Discipline Consultation Service (hereinafter referred to as DDCS) of The Florida Bar. Respondent shall cooperate with DDCS in the conduct thereof. Respondent shall fully comply with and implement, at Respondent's sole expense, all recommendations made by DDCS, which recommendations shall be in accordance with the Office Procedures and Record Keeping Guidelines of DDCS. Respondent shall be required to contact DDCS staff within 30 days from the date of the Court's order to schedule a review. A final review by DDCS staff shall be conducted prior to closure of this matter. This final review shall confirm compliance with, and implementation of, the recommendations of DDCS. DDCS may require additional interviews or reviews as it may, in its sole discretion, deem necessary or advisable. Respondent shall pay all fees and expenses of DDCS incurred or required in connection with the conduct of its analysis. The fees and costs to be associated with this DDCS review shall be \$2,000.00. DDCS shall provide the Lawyer Regulation Department of The Florida Bar with status reports as

to the ordered analysis. Respondent's failure to fully comply with DDCS or failure to pay all the fees and expenses of DDCS may be cause for further proceedings.

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

A. Beginning in 2002, Respondent employed Jorge Tabares, a former lawyer, as a paralegal. Tabares' status as a member of the bar had been terminated after he tendered a disciplinary resignation in 1992.

B. In early 2010, Mindalia A. Rodriguez Monzon visited Respondent's office and retained him to represent her interests in her late-husband's local estate administration.

C. Respondent was in the process of leaving the office to catch a flight to Texas, and left Ms. Monzon with Mr. Tabares to accept her retainer check, provide her with a receipt, and deposit the monies in Respondent's trust account.

D. At the time of his death, Monzon's husband was living in the Dominican Republic. According to Monzon, Tabares advised her that it would be advantageous to open parallel probate proceedings in the Dominican Republic. Accordingly, she contacted an attorney in Santo Domingo.

E. Several weeks later, Respondent's office received correspondence from an attorney in the Dominican Republic (Leopoldo Romero) referring to Tabares as a "Licenciado"—roughly translated as "lawyer."

F. According to a sworn statement later provided by Romero, he believed that Tabares was a lawyer and communicated with him about the probate matter from 2010 until the end of 2011.

G. Monzon met with Tabares a second time during which he helped her secure a hotel room in Miami and complete several personal errands.

H. Respondent contends that—after his office first received correspondence from Romero referring to Tabares as a lawyer—his office informed Monzon that Tabares was not an attorney. Respondent additionally contends that Tabares was not working on Monzon's case and Romero was made aware of the fact that Tabares was not an attorney. Finally, Respondent contends that Tabares has denied giving legal advice and representing himself as an attorney to either Monzon or Romero.

I. Respondent takes full responsibility for allowing Tabares to deposit the funds in trust and for confusion caused to the parties involved.

J. Based upon the foregoing, Respondent failed to exercise adequate supervisory responsibility over Tabares in violation of Rule 4-5.3 (Responsibilities Regarding Nonlawyer Assistants).

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

6. If this plea is not finally approved by the Board of Governors of The Florida Bar 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 \$1,250, in addition to the cost of the DDCS review. 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 any agreed restitution) 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 will reflect adversely on 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.

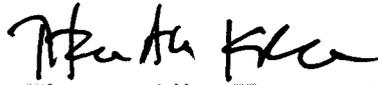
10. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of the Rules Regulating The Florida Bar.

Dated this 26th day of October, 2017.



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Dated this 27 day of October, 2017.



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