

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC18-1074

v.

TFB File Nos. 2017-31,017(18A) and
2018-30,042(18A)

BRIAN KOZLOWSKI,
Respondent.

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, Brian Kozlowski, 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 not represented by counsel in this matter.
3. As to The Florida Bar File Nos. 2017-31,017(18A) and 2018-30,042(18A), there have been findings of probable cause by the grievance committee.

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

- A. Ten-day suspension from the practice of law;
- B. Payment of the bar's disciplinary costs set forth below.

5. Respondent acknowledges that, unless waived or modified by the Court on motion of respondent, the Court order will contain a provision that prohibits respondent from accepting new business from the date of the order or opinion and shall provide that the suspension is effective 30 days from the date of the order or opinion so that respondent may close out the practice of law and protect the interest of existing clients.

6. The following allegations provide the basis for respondent's guilty plea in this matter:

A. TFB File No. 2017-31,017(18A) – The complainant, Lizbel Morales, hired respondent, then an attorney at Donohoe Law, P.A., to represent her in a debt collection matter with complainant's homeowner's association. In late December 2016, respondent drafted a letter alleging that complainant's HOA had engaged in improper debt collection practices. The letter was supposedly sent to four consumer protection entities in conjunction with the filing of formal complaints. Approximately one week later, respondent's affiliation with Donohoe Law, P.A. ended. Complainant

asserted that at least one of the entities claimed it never received the December 2016 correspondence from respondent. Complainant then demanded that respondent return various items provided to him in connection with the representation, including documents, photos, and a thumb drive. According to complainant, respondent told her that the documents and photos were in the mail. Per complainant, she has never received these items from respondent. In addition, respondent failed to timely respond, in writing, to the bar's inquiries into this matter.

B. TFB File No. 2018-30,042(18A) – The complainant, Kathleen Cali, hired respondent in July 2016 to collect a debt relating to a real property insurance claim. Respondent was employed as a subcontractor with Donohoe Law, P.A. In November 2016, respondent claimed to have filed a lawsuit and promised to send copies to complainant, but complainant never received any documents from respondent. Also, complainant could not find a lawsuit filed in Manatee County, where the property is located. Complainant terminated respondent and Donohoe Law, P.A. in January 2017 and requested her entire file at that time. However, complainant was told there were no documents in the file at Donohoe Law, P.A. Complainant was given a refund by Donohoe Law but alleged that respondent's actions put her in an unsecure lien position now that the property was sold in

December 2016. Respondent failed to timely respond, in writing, to the bar regarding this complaint.

7. The following Rules Regulating The Florida Bar provide the basis for the discipline to be imposed in this matter:

A. 4-1.2(a) Subject to subdivisions (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by rule 4-1.4, shall reasonably consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter.

B. 4-1.3 A lawyer shall act with reasonable diligence and promptness in representing a client.

C. 4-1.4(a) A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client

expects assistance not permitted by the Rules of Professional Conduct or other law.

D. 4-1.16(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers and other property relating to or belonging to the client to the extent permitted by law.

E. 4-8.4(g) A lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency, as defined elsewhere in these rules, when bar counsel or the agency is conducting an investigation into the lawyer's conduct. A written response shall be made: (1) within 15 days of the date of the initial written investigative inquiry by bar counsel, grievance committee, or board of governors; (2) within 10 days of the date of any follow-up written investigative inquiries by bar counsel, grievance committee, or board of governors.

8. In mitigation, respondent has no prior disciplinary history [Florida Standards for Imposing Lawyer Sanctions 9.32(a)]; respondent was experiencing serious personal problems during the time that the misconduct took place [9.32(c)];

and, respondent has expressed remorse for his misconduct [9.32(l)]. In aggravation, respondent engaged in a pattern of misconduct [9.22(c)].

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

10. 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.

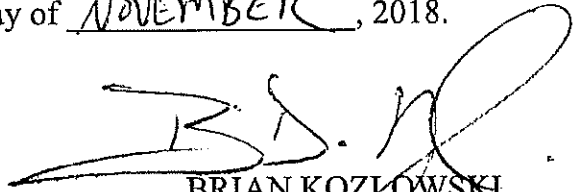
11. If this plea is approved, then respondent agrees to pay all reasonable costs associated with this case pursuant to Rule 3-7.6(q) in the amount of \$2,601.09. These costs are due within 30 days of the Court order. Respondent agrees that if the costs are not paid within 30 days of this Court's order 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.

12. 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.

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

Dated this 28th day of NOVEMBER, 2018.



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Respondent
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Dated this 30th day of November, 2018.



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