

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

STEPHEN MICHAEL CODY,

Respondent.

_____ /

The Florida Bar File Nos.

2011-71,263(11C)

2012-70,428(11C)

2012-90,149(OSC)

Supreme Court Case

No. _____

**UNCONDITIONAL GUILTY PLEA AND
CONSENT JUDGMENT FOR DISCIPLINE**

STEPHEN MICHAEL CODY, Respondent, having been fully advised of his procedural rights under the Rules Regulating The Florida Bar, hereby tenders this Unconditional Guilty Plea and Consent Judgment for Discipline pursuant to Rule 3-7.9(a), Rules of Discipline, and says:

1. Stephen Michael Cody is and was, at all times material herein, a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. Respondent was admitted to The Florida Bar on November 18, 1981.

3. Respondent is currently the subject of the above-referenced Florida Bar disciplinary matters which have been assigned The Florida Bar File Nos.: 2011-71,263(11C) and 2012-70,428(11C) .

4. Respondent is also the subject of a Petition for Contempt which has been assigned Supreme Court Case No.: SC12-1073, The Florida Bar File No: 2012-90,149(OSC).

5. As to The Florida Bar File No.: 2011-71,263(11C), Respondent admits that the following facts are true and accurate and stipulates:

A. Respondent represented the defendant, Hotel Nash, LLC, in a case styled Daniel Turner v. Hotel Nash, LLC, Case No.: 08-22832-CIV-GOLD/McALILEY, U.S. District Court for the Southern District of Florida (“Underlying Case”).

B. Respondent served an offer of judgment in the Underlying Case on March 8, 2010 for \$10.00 plus reasonable costs and attorney’s fees without the express approval of the client.

C. The plaintiff accepted the offer by notice dated March 12, 2010 and a Final Judgment in the amount of \$10.00 was entered by the court on March 16, 2010.

D. Respondent satisfied the judgment with a money order, however he failed to inform the client of this. The plaintiff filed a Notice of Satisfaction of Judgment on April 27, 2010.

E. On February 25, 2011, the court entered an Order Adopting Magistrate Judge’s Report and Recommendation on Plaintiff’s Motion for Award

of Attorney's Fees and Costs awarding attorney's fees of \$12,403.50 and costs in the amount of \$645.50 in the plaintiff's favor.

F. Respondent failed to inform the client of the court's order regarding attorney's fees and costs and failed to communicate with the client regarding all subsequent matters in the case, including the fact that Respondent continued to litigate the issue of attorney's fees through July, 2010.

G. The Respondent failed to timely respond to The Florida Bar's inquiries regarding the grievance filed by Michael Sabat, a managing member of Hotel Nash, LLC.

H. By reason of the foregoing, Respondent has violated Rules 4-1.1 (Competence), 4-1.2(a) (Objectives and Scope of Representation. Lawyer to Abide by Client's Decision), 4-1.3 (Diligence), 4-1.4 (Communication) and 4-8.4(g) (Misconduct. A lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel) of the Rules of Professional Conduct.

6. As to The Florida Bar File No.: 2012-70,428(11C), Respondent admits that the following facts are true and accurate and stipulates:

A. On October 5, 2011, Respondent was charged with two counts of Uttering a Worthless Check by the State Attorney's Office for the Eleventh Judicial Circuit of Florida in case styled State of Florida v. Stephen Michael Cody, Case No.: F11-026298.

B. Specifically, the Information alleged that Respondent, on September 13, 2010, and September 20, 2010, issued checks that were drawn on a closed personal account, knowing that the account did not have sufficient funds to honor the payment.

C. The account in question was not Respondent's trust account and there was no implication that client funds were in any way involved.

D. Respondent paid restitution in the amount of \$2,292.96. Subsequently the State announced a *nolle prosequere* on December 6, 2011.

E. By reason of the foregoing, Respondent has violated Rules 4-8.4(b)(Misconduct. A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects), Rule 4-8.4(c)(Misconduct. A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules of Professional Conduct.

7. As to Supreme Court Case No.: SC12-1073, The Florida Bar File No.: 2012-90,149(OSC), Respondent admits that the following facts are true and accurate and stipulates:

A. On April 13, 2011, in The Florida Bar File Nos. 2010-70,869(11C) and 2010-71,250(11C), Respondent was served with a report of minor misconduct. The report admonished Respondent and included a condition that he

undergo an office procedures and record keeping analysis, by and under the direction of the Law Office and Management Assistance Service (LOMAS) of The Florida Bar, and pay for all associated fees and costs.

B. Respondent was required to contact LOMAS within thirty (30) days of the admonishment and, within sixty (60) days, provide proof to the Bar's headquarters office that he had scheduled a review.

C. Respondent failed to contact LOMAS within the required time, and although he subsequently scheduled an initial review for February 21, 2012, he failed to pay the required LOMAS fee. Accordingly, the review was cancelled.

D. Respondent later spoke with a representative of LOMAS and rescheduled the initial review for March 23, 2012; however, Respondent again failed to pay the required fee which resulted in the cancellation of the review.

E. Although The Florida Bar sent correspondence requesting Respondent to pay the required LOMAS fee and reschedule the initial review, he failed to respond.

F. By reason of the foregoing, Respondent is in contempt for failing to comply with the conditions of the report of minor misconduct.

8. Pursuant to Rule 3-7.9(a) of the Rules Regulating The Florida Bar, Respondent hereby tenders this Unconditional Guilty Plea and Consent Judgment for Discipline wherein Respondent agrees to the following discipline:

A. One (1) year suspension.

B. Payment of restitution in the amount of \$13,049.00 to his former client Hotel Nash, LLC, within one (1) year of the entry of the Supreme Court's Order in this matter.

9. In addition, as a condition of any future reinstatement, Respondent shall complete the LOMAS office procedures and record keeping analysis within ninety (90) days of any order reinstating him to the practice of law.

10. Respondent agrees to pay all costs reasonably incurred by The Florida Bar in the investigation of the aforesaid matter within ninety (90) days of the entry of the Supreme Court's final order, plus interest at the prevailing statutory rate to accrue on all costs not paid within said time, unless time for payment is extended by the Board of Governors.

11. Respondent agrees that the costs indicated below have been incurred.

Administrative fee	
Rule 3-7.6(q)	\$ 1,250.00
Copies.....	\$ 6.60

TOTAL: \$ 1,256.60

12. Respondent agrees that he will not attempt to discharge the obligation for the payment of the Bar's costs in any future proceedings, including but not limited to, a Petition for Bankruptcy.

13. Respondent recognizes that the disciplinary sanction to be imposed will ultimately be determined by the Supreme Court of Florida which will not be bound to follow the recommendation of either The Florida Bar or the Board of Governors in these proceedings.

14. Respondent agrees that this Unconditional Guilty Plea and every factual admission contained herein, and specifically the admissions set forth in paragraphs five (5), six (6), seven (7) eight (8) nine (9) and ten (10), shall have full force and effect regardless of any subsequent recommendation or action taken with respect to the terms of the discipline offered by Respondent pursuant to this consent judgment for discipline.

15. Respondent recognizes that the disciplinary sanction to be imposed will ultimately be determined by the Supreme Court of Florida which will not be bound to follow the recommendation of either The Florida Bar or the Board of Governors in these proceedings. Respondent agrees that in the event that the terms of discipline offered herein are not approved by The Board of Governors of The Florida Bar (or their designee), or the Supreme Court, this matter will proceed solely on the question of discipline.

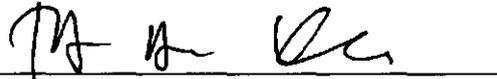
16. Respondent acknowledges that this document is tendered freely and voluntarily, and without fear, threat or coercion.

DATED this 7th day of JUNE, 2012.



STEPHEN MICHAEL CODY
Respondent
TFB No. 334685
16610 SW 82nd Court
Palmetto Bay, Florida 33157

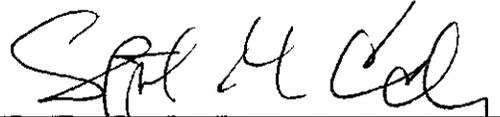
Approved by:



THOMAS ALLEN KROEGER
Bar Counsel
TFB No. 19303
The Florida Bar
444 Brickell Avenue
Suite M-100
Miami, Florida 33131
(305) 377-4445

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the above and foregoing Disbarment on Consent was delivered via Hand Delivery to Thomas Allen Kroeger, Bar Counsel, The Florida Bar, Suite M-100, 444 Brickell Avenue, Miami, Florida 33131 on this 7th day of June, 2012.



STEPHEN MICHAEL CODY

Respondent

TFB No. 334685

16610 SW 82nd Court

Palmetto Bay, Florida 33157