

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

JOHN LESLIE GIOIELLO,

Respondent.

Supreme Court Case

No. SC-

The Florida Bar File

No. 2017-90,032 (OSC)

**THE FLORIDA BAR'S PETITION FOR CONTEMPT AND ORDER TO
SHOW CAUSE**

Petitioner, The Florida Bar, files this Petition for Contempt and Order to Show Cause and requests that respondent, John Leslie Gioiello, be suspended until he complies and further order of this court and says:

1. In The Florida Bar File No. 2015-00,440(14), the Fourteenth Judicial Circuit Grievance Committee issued a report of minor misconduct and recommended that respondent receive an admonishment and place on probation for 1 year with conditions. See, Report of Minor Misconduct attached as "Exhibit A."

2. On February 19, 2016, the report of minor misconduct was deemed accepted.

3. The conditions, in part, required respondent to contact Florida Lawyers Assistance, Inc. (FLA, Inc.) for an evaluation within 10 days of

acceptance of the report of minor misconduct. Respondent was required to provide proof of scheduling an evaluation to The Florida Bar within 60 days of the acceptance of the report of minor misconduct. Respondent shall participate in the evaluation and do whatever FLA, Inc. recommends. If FLA, Inc. recommends that respondent enter a contract with FLA, Inc., he will do so within 10 days of the receipt of the recommendation for the period recommended by FLA, Inc.

4. The Florida Bar notified respondent of the conditions associated with his report of minor misconduct, including the costs associated with his FLA, Inc. rehabilitation contract, via a letter dated February 22, 2016. See, The Florida Bar's letter to respondent dated February 22, 2016 attached hereto as "Exhibit B."

5. Respondent failed to contact FLA, Inc. within 10 days of acceptance of the report of minor misconduct for an evaluation and respondent failed to provide proof of scheduling the evaluation to The Florida Bar within 60 days of acceptance of the report of minor misconduct.

6. The Florida Bar sent respondent a letter on June 22, 2016 regarding his failure to contact FLA, Inc. and schedule an evaluation. See, The Florida Bar's letter to respondent dated June 22, 2016, attached hereto as "Exhibit C."

7. Respondent failed to respond to The Florida Bar's letter dated June 22, 2016.

8. The Florida Bar sent respondent a letter on November 29, 2016 regarding his failure to contact FLA, Inc. and schedule an evaluation. See, The Florida Bar's letter to respondent dated November 29, 2016, attached hereto as "Exhibit d."

9. Respondent failed to respond to The Florida Bar's letter dated November 29, 2016.

10. Respondent has failed to contact FLA, Inc. and failed to schedule an evaluation. See, Dr. Scott Weinstein, Clinical Director, FLA, Inc.'s affidavit dated January 18, 2017 attached hereto as "Exhibit E."

11. Due to respondent's noncompliance with the Report of Minor Misconduct issued by the Fourteenth Judicial Circuit Grievance Committee which became final on February 19, 2016, The Florida Bar was obligated to file this Petition for Contempt for noncompliance.

12. The other members of The Florida Bar should not have to pay for respondent's noncompliance with this Court's order and the instant proceeding. Therefore, the Bar is requesting administrative costs of \$1,250.00 against respondent.

WHEREFORE, petitioner, The Florida Bar, respectfully requests this Court enter its order directing respondent, John Leslie Gioiello, to show cause why he should not be held in contempt and be indefinitely suspended until he complies and

until further order of this court and assess costs in the amount of \$1,250.00 to The Florida Bar. The Florida Bar further requested that if John Leslie Gioiello does not comply within 90 days of this Court's order that he be required to petition for reinstatement and follow all reinstatement procedures.

Respectfully submitted,



Arne Carl Vanstrum, Bar Counsel
The Florida Bar
Headquarters
651 East Jefferson Street
Tallahassee, Florida 32399-2300
(850) 561-5839
Florida Bar No. 865771
Avanstru@floridabar.org

CERTIFICATE OF SERVICE

I certify that this document has been Efiled with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida using the E-Filing Portal with a copy provided by United States Mail via Certified Mail No. 7013 2250 0001 8431 1718, return receipt requested to John Leslie Gioiello, respondent, at his record bar address of Post Office Box 1987, Panama City, Florida 32402-1897, and by email whose record bar email address is jl GPA@hotmail.com, and to Adria E. Quintela, Staff Counsel, The Florida Bar whose record bar address is aquintel@floridabar.org, on this 20th day of January, 2017.



Arne Carl Vanstrum, Bar Counsel

NOTICE OF DESIGNATION OF PRIMARY EMAIL ADDRESS

PLEASE TAKE NOTICE that bar counsel in this matter is Arne Carl Vanstrum, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Headquarters, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, (850) 561-5839 and avanstru@flabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than bar counsel and to Adria E. Quintela, Staff Counsel, The Florida Bar, Lakeshore Plaza II, Suite 130, 1300 Concord Terrace, Sunrise, Florida 33323, aquintel@flabar.org.

IN THE SUPREME COURT OF FLORIDA
(Before a Grievance Committee)

THE FLORIDA BAR,

Complainant,

The Florida Bar File
No. 2015-00,440(14)

v.

JOHN LESLIE GIOIELLO,

Respondent.

REPORT OF MINOR MISCONDUCT

I. COMMITTEE RECOMMENDATION: Pursuant to R. Regulating Fla. Bar 3-7.4(m), the committee recommends that the Respondent receive an Admonishment for Minor Misconduct, and as a condition of the Admonishment be placed on probation for one year from his acceptance of the report of minor misconduct. The terms of probation are as follows:

(1) Respondent will contact Florida Lawyers Assistance, Inc. ("FLA") for an evaluation within ten (10) days of acceptance of the report of minor misconduct. After Respondent has contacted FLA for an evaluation, within sixty (60) days of the acceptance of the report of minor misconduct, Respondent will provide to The Florida Bar proof that he has scheduled an evaluation and send that proof to The Florida Bar, Headquarters Division of Lawyer Regulation, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300. Respondent shall participate in the evaluation,

and do whatever FLA recommends. If FLA recommends that Respondent enter into a contract with FLA, he will do so within ten (10) days of the receipt of the recommendation for the period recommended by FLA.

(2) Respondent will be responsible to pay all fees associated with any FLA contract noted above, including a FLA registration fee of \$250 and a probation monitoring fee of \$100 a month to The Florida Bar's headquarters office of Lawyer Regulation. All monthly monitoring fees must be remitted no later than the end of each respective month in which the monitoring fee is due. All fees must be paid to The Florida Bar's Headquarters Division of Lawyer Regulation in Tallahassee. Failure to pay shall be deemed cause to revoke probation.

(3) Respondent will find Mr. Scott Watkins within his period of probation and obtain his signature on a quit claim deed as soon as he can find him. He will remit the quit claim deed to Ms. Burnham and a copy to Mr. Wolf. Once Respondent has complied with this requirement of his probation, he will provide an affidavit to The Florida Bar, Headquarters Division of Lawyer Regulation, stating the actions he has taken and providing proof of compliance with this requirement of his probation.

(4) Administration of the Admonishment shall be by service of this report, and conditioned upon Respondent's compliance with all the terms stated herein. If no FLA contract is recommended and Respondent has complied with the

other terms of his probation, then Respondent may request The Florida Bar, Headquarters Division of Lawyer Regulation, for early termination of his probation. Whether or not to terminate Respondent's probation will be left to the sole discretion of The Florida Bar.

II. SUMMARY OF MISCONDUCT AND RULE VIOLATIONS FOUND

On or about December 6, 2013, Respondent prepared the legal documents in a matter in which Lupine Land LLP loaned Scott Watkins \$17,500. The loan was secured by property deeded to Mr. Watkins and Kathleen Burnham. Respondent was to check the liens on the property and secure a lenders' title policy. Mr. Watkins was in a hurry to obtain the loan because he stated that he needed to travel out of the country. After he got the money, Mr. Watkins failed to honor the promissory note. Ms. Burnham agreed to pay the loan but she did not want Mr. Watkins claiming an interest in the property later. Although he was not paid any additional legal fees, Respondent promised his client that he would get a lien on the property dismissed and would obtain a quit claim deed from Mr. Watkins who was incarcerated. As of the date of the grievance committee hearing, however, Respondent had failed to get the quit claim deed executed by Mr. Watkins. Respondent appeared at the grievance committee hearing on November 12, 2015, took full responsibility for his actions, and stated he could not find Mr. Watkins because he had been released early from prison. The grievance committee found

Respondent in violation of Rules: 4-1.2 (Scope of Representation), 4-1.3 (Diligence), and 4-1.4 (Communication).

III. COMMENT ON MITIGATING, AGGRAVATING OR EVIDENTIARY MATTERS: The committee believes that the following comment on mitigating and aggravating matters will be helpful in considering acceptance of the report:

9.2 AGGRAVATION

- (a) prior disciplinary offenses
- (i) substantial experience in the practice of law

9.3 MITIGATION

- (b) absence of a dishonest or selfish motive – Respondent was not paid any additional legal fees to obtain the quitclaim deed or dismiss the lien;
- (c) personal and emotional problems;
- (d) remorse

IV. ADMONISHMENT: John Leslie Gioiello, your actions have discredited the legal profession of the State of Florida. Such conduct cannot be tolerated by your fellow lawyers and should not be tolerated by you. Pride in your profession demands that you not violate the Rules of Professional Conduct again. If you do, your present misconduct will be considered in future disciplinary proceedings.

V. COSTS: The costs of these proceedings are assessed against Respondent as follows:

Administrative Costs	\$1,250.00
Court Reporter Fees and Transcripts	\$65.00
Attorney Travel and Expenses	\$83.32
Investigative Costs and Expenses	\$171.91
TOTAL	\$1,570.23

Costs are due The Florida Bar within 30 days from acceptance of this minor misconduct recommendation.

Pursuant to R. Regulating Fla. Bar 1-3.6(c), any person now or hereafter licensed to practice law in Florida shall be deemed a delinquent member if the member fails to pay the costs assessed in diversion or disciplinary cases within 30 days after the disciplinary decision or diversion recommendation becomes final, unless such time is extended by the board of governors for good cause shown. Delinquent members shall not engage in the practice of law in Florida nor be entitled to any privileges and benefits accorded to members of The Florida Bar in good standing.

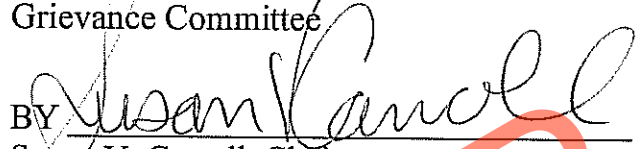
VI. COMMITTEE VOTE: A quorum consists of not less than 3 members of the committee being present, 2 of whom are lawyers. The committee, by affirmative vote of a majority, voted in favor of the recommendation as stated in Item I above. In accordance with Rule 3-7.4(g), the committee reports the number of committee members voting for, or against, this report as follows:

In favor of the report	<u>5</u>
Against the report	<u>0</u>

Dated this 14 day of December, 2015.

Fourteenth Judicial Circuit
Grievance Committee

BY



Susan V. Carroll, Chair

WJHGWECR



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

John F. Harkness, Jr.
Executive Director

850/561-5600
www.FLORIDABAR.org

February 22, 2016

Mr. John Leslie Gioiello
Post Office Box 1987
Panama City, FL 32402-1987

Re: The Florida Bar v. John Leslie Gioiello; The Florida Bar File No. 2015-00,440 (14)

Dear Mr. Gioiello:

You received an admonishment by virtue of a Report of Minor Misconduct which became final on February 19, 2016. Additionally, you were placed on probation for a period of 1 year. Costs were assessed against you in the amount of \$1,570.23. Costs are due in this office no later than March 21, 2016. **Please review the attached Failure to Pay Notice carefully as it may substantially affect your continuing ability to practice law.** If you are interested in being on a payment plan, and you qualify under the Delinquent Costs paragraph in the attached Failure to Pay Notice, you need to contact our office immediately.

You will contact Florida Lawyers Assistance, Inc. ("FLA, Inc.") for an evaluation within 10 days of acceptance of the report of minor misconduct, to wit: February 29, 2016. After you have contacted FLA, Inc. for an evaluation, within 60 days of the acceptance of the report of minor misconduct, you will provide to The Florida Bar proof that you have scheduled an evaluation and send that proof to the Florida Bar, Headquarters Division of Lawyer Regulation, 651 E Jefferson Street, Tallahassee, Florida 32399-2300. You shall participate in the evaluation, and do whatever FLA, Inc. recommends. If FLA, Inc. recommends that you enter into a contract with FLA, Inc., you will do so within 10 days of the receipt of the recommendation for the period recommended by FLA, Inc.

You will be responsible to pay all fees associated with any FLA, Inc. contract noted above, including a FLA, Inc. registration fee of \$250.00 and a monthly probation monitoring fee of \$100.00 that must be submitted to The Florida Bar each month during the term of your probation. All monitoring fees must be submitted no later than the end of each respective month in which the fee is due. All fees must be paid to The Florida Bar's Headquarters division of Lawyer Regulation in Tallahassee. You will not be sent a bill and it is your responsibility to pay these fees on a timely basis. Failure to do so shall be deemed cause to revoke probation.

You will find Mr. Scott Watkins within your period of probation and obtain his signature on a quit claim deed as soon as you can find him. You will remit the quit claim deed to Ms. Burnham

Exhibit B

Mr. John Leslie Gioiello

February 22, 2016

Page 2

and a copy to Mr. Wolf. Once you have complied with this requirement of your probation, you will provide an affidavit to The Florida Bar, Headquarters Division of Lawyer Regulation, stating the actions you have taken and providing proof of compliance with this requirement of your probation.

If no FLA, Inc. contract is recommended and you have complied with the other terms of your probation, then you may request The Florida Bar headquarters office for early termination of our probation. Whether or not to terminate your probation will be left to the sole discretion of The Florida Bar.

Sherry Walker, Florida Bar Headquarters Paralegal, will be the contact person at The Florida Bar for issues relating to compliance with the court order and may be contacted at (850) 561-5796 should there be any questions regarding this matter.

Sincerely,



Lisa Chason, Compliance Coordinator
Lawyer Regulation Headquarters

Enclosure - Failure to Pay Notice

cc: Florida Lawyers Assistance, Inc.

FAILURE TO PAY NOTICE

The grievance committee has assessed costs, imposed fee arbitration and/or restitution and/or obligations. The requirements of this recommendation create certain obligations of which you should be aware.

Making Payment

Please send checks or money orders made payable to "The Florida Bar" to the attention of Lisa F. Chason, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300. Please place The Florida Bar file number on the check so we may extend proper credit for the payment.

Credit card payments are also accepted by submission of the enclosed credit card form. The entire balance must be paid; no partial payment will be accepted.

Delinquent Costs

Costs are deemed delinquent unless they are paid within 30 days after the recommendation becomes final. The time for payment may be extended by The Board of Governors (hereafter the Board) for good cause shown. In order for the Board to approve an extension of time a payment plan must be requested and certain financial information disclosed. Ordinarily payment plans are not approved unless extreme financial hardship is proven through financial affidavits that include a statement of assets and liabilities.

Delinquent Fee Arbitration Award(s)

Fee arbitration awards are deemed delinquent unless paid within 30 days after the award becomes final.

Delinquent Restitution

Restitution is deemed delinquent unless it is made within the time frame and in the manner provided by the recommendation or the agreement imposing the obligation.

Effect of Delinquency

If costs, restitution or fee arbitration awards become delinquent, you will be deemed a delinquent member of The Florida Bar and as such will not be entitled to practice law in Florida until such time as the delinquency is cured. Cure of the delinquency will include making payment of all required obligations, providing proof of payment, filing a petition for removal of delinquency status and payment of a \$150.00 reinstatement fee. Thereafter the petition will be reviewed and, if appropriate, the delinquency will be removed.

Lapse of Membership Status

Any member who remains delinquent for a period of five years or longer will lose bar membership. A member whose membership has lapsed may return to the practice of law in Florida only through application to the Florida Board of Bar Examiners, which will include taking and passing the bar examination and successful completion of the character and fitness evaluation.

Maintaining Contact

There may be important information that we need to communicate after the recommendation becomes final. For this reason, it is important to maintain an accurate mailing address, telephone number and other contact information. In fact, The Rules Regulating The Florida Bar mandate that all members of The Florida Bar keep current contact information on file.

If you have any questions about these issues please feel free to contact Lisa F. Chason by telephone at (800) 342-8060, ext. 3186.

The Florida Bar
Lawyer Regulation – Headquarters Office
Authorization for Payment by Credit Card

Name _____

Bar Number _____

Address _____

City _____ State _____ Zip _____

Phone _____

Fax _____

E-mail _____

The Florida Bar File No. _____

Date of Assessment _____

Amount Assessed _____

Payment Amount _____

Credit Card Number _____

Credit Card Type (Circle One) Visa Mastercard
 Discover American Express

Expiration Date _____

I hereby authorize The Florida Bar to charge \$ _____ to the credit card listed above.

Signature _____ Date _____

Please submit this form to The Florida Bar, Attn: Lisa F. Chason via secure facsimile at (850) 561-9436. Should you have questions, please contact Ms. Chason at (850) 561-3186 or at lchason@flabar.org.

FOR F&A

7200001	\$	4400024	\$
7200002	\$		
7200003	\$		
7500001	\$		
7600001	\$		
4400002	\$		
4400003	\$		



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

John F. Harkness, Jr.
Executive Director

850/561-5600
www.FLORIDABAR.org

June 22, 2016

Mr. John Leslie Gioiello
Post Office Box 1987
Panama City, FL 32402-1987

Re: The Florida Bar v. John Leslie Gioiello
The Florida Bar File No. 2015-00,440(14)

Dear Mr. Gioiello:

You were required to contact Florida Lawyers Assistance, Inc. (FLA, Inc.) for an evaluation within 10 days of the acceptance of the report of minor misconduct, to wit: February 29, 2016, and provide proof to the Bar that you had scheduled an evaluation within 60 days of the acceptance of the report of minor misconduct, to wit: April 19, 2016. FLA, Inc. has reported that you have not contacted them for an evaluation. You have 10 days from the date of this letter to contact FLA, Inc. and schedule an evaluation or provide a written statement as to why you are unable to contact FLA, Inc. and schedule an evaluation.

YOUR PROMPT ATTENTION IS REQUIRED.

Sincerely,

Sheryl Remien Walker

Sheryl Remien Walker, CP FCP, FRP
Certified Paralegal
Lawyer Regulation Headquarters

/srw

cc: Florida Lawyers Assistance, Inc.

Exhibit C



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

John F. Harkness, Jr.
Executive Director

850/561-5600
www.FLORIDABAR.org

November 29, 2016

Mr. John Leslie Gioiello
Post Office Box 1987
Panama City, FL 32402-1987

Re: The Florida Bar v. John Leslie Gioiello
The Florida Bar File No. 2015-00,440 (14)

Dear Mr. Gioiello:

You were required to contact Florida Lawyers Assistance, Inc. (FLA, Inc.) for an evaluation within 10 days of the acceptance of the report of minor misconduct, to wit: February 29, 2016, and provide proof to the Bar that you had scheduled an evaluation within 60 days of the acceptance of the report of minor misconduct, to wit: April 19, 2016. FLA, Inc. has reported that you have not contacted them for an evaluation.

You have 10 days from the date of this letter to contact FLA, Inc. and schedule an evaluation or provide a written statement as to why you are unable to contact FLA, Inc. and schedule an evaluation. If you fail to respond to this inquiry, then The Florida Bar will file a Petition for Contempt and Order to Show Cause seeking enhanced discipline and requesting administrative costs in the amount of \$1,250.00 for filing said petition.

YOUR PROMPT ATTENTION IS REQUIRED.

Sincerely,

Arne Carl Vanstrum, Associate Director
Lawyer Regulation Headquarters

ACV/srw

cc: Florida Lawyers Assistance, Inc.

Exhibit D

THE FLORIDA BAR,

Case No.2015,00 440(14)

Complainant

vs.

JOHN LESLIE GIOIELLO

Respondent

_____ /

AFFIDAVIT

Scott M. Weinstein, being first duly sworn, deposes and states that:

1. Your deponent is the Clinical Director for Florida Lawyers Assistance, Inc. (FLA), the not-for-profit Florida corporation mandated by the Florida Supreme Court to provide substance abuse and mental health evaluation, rehabilitation, monitoring and reporting services. I am familiar with the file regarding **John Leslie Gioiello**.
2. Mr. Gioiello was initially required to contact Florida Lawyers Assistance, Inc. (FLA, Inc.) for an evaluation within 10 days of the acceptance of the report of minor misconduct, to wit: February 29, 2016, and provide proof to the Bar that you had scheduled an evaluation within 60 days of the acceptance of the report of minor misconduct, to wit: April 19, 2016. FLA, Inc.
3. FLA contacted the Bar following the April 19, 2016 date informing the Bar there had been no contact by Mr. Gioiello.
4. In a letter dated November 29, 2016, a second letter was sent to Mr. Gioiello requiring him to contact FLA to schedule an evaluation and to do so within 10 days of that letter.
5. As of this date, FLA has not been contacted by Mr. Gioiello.

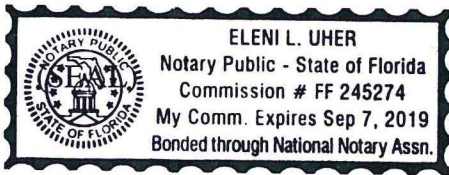
Exhibit E

FURTHER AFFIANT SAYETH NOT.



SCOTT M. WEINSTEIN

Sworn to and subscribed before me this 18TH day of JANUARY, 2017, by **Scott M. Weinstein**, who is personally known to me.



Notary Public, State of Florida

WJHGWECR