

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

Supreme Court Case No: SC-
[TFB Case No. 2011-51,879(19B)]

WILLIAM TIMOTHY O'TOOLE,

Respondent.

_____ /

PETITION FOR EMERGENCY SUSPENSION

This petition of The Florida Bar seeks emergency relief and requires the immediate attention of the court pursuant to R. Regulating Fla. Bar 3-5.2. The Florida Bar seeks the emergency suspension of William Timothy O'Toole, Attorney No. 967548, from the practice of law in Florida based on facts that establish clearly and convincingly that William Timothy O'Toole appears to be causing great public harm as will be shown by facts supported by admissions made under oath in the deposition of William Timothy O'Toole dated June 28, 2011, attached hereto as Exhibit 1 and the sworn complaints of 19 members of the public, attached hereto as Exhibit 2, and states as follows:

1. The filing of this Petition for Emergency Suspension has been authorized by the Executive Director of The Florida Bar.

2. Respondent, William Timothy O'Toole, is and at all times hereinafter mentioned, was a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

3. Respondent is currently the subject of twenty bar disciplinary matters filed by his clients, which have been assigned The Florida Bar file numbers 2011-50,740(19B), 2011-51,270(19B), 2011-51,413(19B), 2011-51,409(19B), 2011-51,428(19B), 2011-51,435(19B), 2011-51,468(19B), 2011-51,535(19B), 2011-51,607(19B), 2011-51,658(19B), 2011-51,695(19B), 2011-31,369(19B), 2011-51,797(19B), 2011-51,812(19B), 2011-51,834(19B). 2011-51,853(19B), 2011-51,856(19B), 2011-51,860(19B), 2012-50,031(19B) and 2012-50,044(19B). These bar complaints allege that respondent has failed to properly communicate with them and failed to diligently handle their cases.

4. The attached deposition of respondent taken on June 28, 2011, is attached as Exhibit 1 and the sworn complaints, without attachments, by 19 clients in the above named cases are attached as Exhibit 2. The deposition of respondent and the sworn bar complaints are used by the bar to support this Petition for Emergency Suspension. Also, in case number 2011-51,695(19B), the Florida Bar received an email from the Florida Attorney Generals Office which included many complaints from homeowners regarding respondent and Summit Legal Group.

5. Respondent admits his law firm, Summit Legal Group, represents homeowners in loan modifications and foreclosure defense. In 2008, the Florida Legislature enacted section 501.1377, The Foreclosure Rescue Act, to protect homeowners who were in default on their mortgages or in foreclosure from fraud, deception and unfair dealings with foreclosure-rescue consultants. Section 501.1377 of the Florida Statutes prohibits any foreclosure-rescue consultant from collecting any payments from homeowners before they completed or performed all the services for the homeowner. This Section of Chapter 501 of the Florida Statutes became effective October 1, 2008. Attorneys are still allowed to collect upfront fees under the statute and thus, The Florida Bar has clearly and repeatedly warned its membership that they should be wary of associating with nonlawyer foreclosure-rescue consultants who seek to avoid the up front fee limitations of the statute as the Rules of Professional Conduct prohibit misconduct in this regard. Attached as Exhibit 3 is a sampling of the articles and ethics alerts The Florida Bar has published to its membership.

6. The Bar's investigation of this matter has found that respondent, since at least March 2010 to present, presents great public harm as he has and continues to engage in the following misconduct:

- a) Respondent has associated with nonlawyer Randy Baker to form Summit Legal Group, (Ex. 1 pgs. 8-9 and 26-28). Mr. Baker is the subject of

a complaint brought by the Office of the Attorney General Department of Legal Affairs, in the State of Florida. The complaint alleges that Randy Baker and Baker, Kennedy and Associates LLC, “engaged in a systematic pattern of conduct designed and intended to induce consumers to purchase their loan modification and foreclosure-related services via a series of false and fraudulent representations.” A copy of the complaint is attached as Exhibit 4.

b) Respondent is allowing nonlawyers to improperly solicit clients on his behalf for loan modifications and foreclosure defense on a nationwide basis despite that fact that he can only practice law in the State of Florida. Respondent admits he is aware that the nonlawyers buy leads which provide them with the names of potential clients for Summit Legal Group. (Ex. 1 pgs. 33-34) Respondent further admits he is aware that the nonlawyers telephone the potential clients to solicit their business by promising them results such as a rate reduction on their loan. (Ex. 1 pgs. 34-35).

c) Respondent has and continues to split fees with nonlawyers, including paying one nonlawyer \$21,000 of the \$26,000 fees respondent was paid by another law firm to take over their cases. (Ex. 1 pgs. 62, 82-83). Respondent admits he does not supervise or train any of the nonlawyers who are working on his client’s files. (Ex. 1 pgs.26-28).

d) Respondent admits that he allows almost exclusive control of the office to the nonlawyers who control all the contact with the client from the initial call, to the fee agreement, to negotiations with the bank and then advising the client of the outcome of their case. (Ex. 1 pgs. 85-89). Respondent admits his clients are charged between \$1,500 and \$3,000 up front and that the nonlawyers determine the fee that will be charged. (Ex. 1 pgs. 107-108). Respondent admits becomes involved in his clients' cases when the client needs representation in foreclosure defense. (Ex. 1 pgs. 109-110).

e) Respondent has allowed a nonlawyer to create a website for Summit Legal Group which is misleading to the public by indicating that Summit Legal Group is a group of lawyers who specialize in this area of law when in fact respondent is the only lawyer. (Ex. 1 pgs. 24-25). Further, the website refers to respondent as an expert in several fields of law when, in fact, he is not board certified in any area of law and thus cannot hold himself out as a specialist. (Ex. 1 pgs. 24-25).

f) Respondent currently has between 2,500 and 3,000 clients as a result of the above conduct and he admits that he has so many files he does not know the status of the client's files. (Ex. 1 pgs. 84 and 171).

g) Many of the clients who have been solicited and who have paid respondent money for representation live in states other than Florida. (Ex. 1 p. 38). Respondent admits clients from states other than Florida have signed fee agreements with his law firm and have been led to believe that respondent will represent them in foreclosure defense in their state although he can not provide those services as he is only licensed in Florida. (Ex. 1 pgs. 37, 188 and 197).

7. Respondent has assisted the nonlawyers who run his law firm, Summit Legal Group, to avoid prosecution under Florida Statute 501.1377 by the pretense that a lawyer is representing the homeowners in their loan modification cases.

WHEREFORE, based on the aforementioned facts, the bar asserts the respondent has caused, and continues to cause, immediate and serious harm to clients and/or the public and that immediate action must be taken for the protection of the respondent's clients and the public. Therefore, pursuant to R. Regulating Fla. Bar 3-5.2, The Florida Bar respectfully requests this court to:

A. Suspend respondent from the practice of law until further order of this court.

B. Order respondent to accept no new clients from the date of this Court's order and to cease representing any clients after 30 days from the date of this Court's order. In addition, respondent shall cease acting as personal representative

for any estate, as guardian for any ward, and as trustee for any trust and will seek to withdraw from said representation within thirty days from the date of this court's order and will immediately turn over to any successor the complete financial records of any estate, guardianship or trust upon the successor's appointment.

C. Order respondent to furnish a copy of the suspension order to all clients, opposing counsel and courts before which William Timothy O'Toole is counsel of record as required by Rule 3-5.1(g) of the Rules of Discipline of The Florida Bar and to furnish bar counsel with the requisite affidavit listing all clients, opposing counsel and courts so informed within 30 days after receipt of the court's order.

D. Order respondent to refrain from withdrawing or disbursing any money from any trust account related to respondent's law practice until further order of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8, and to deposit any fees, or other sums received in connection with the practice of law or in connection with the respondent's employment as a personal representative, guardian or trustee, paid to the respondent during the first thirty days after issuance of this Court's order of emergency suspension, into a specified trust account from which withdrawal may only be made in accordance

with restrictions imposed by this Court. Further, respondent shall be required to notify bar counsel of The Florida Bar of the receipt and location of said funds within 30 days of the order of emergency suspension.

E. Order respondent not withdraw any money from any trust account or other financial institution account related to respondent's law practice or transfer any ownership of any real or personal property purchased in whole or in part with funds properly belonging to clients, probate estates for which respondent served as personal representative, guardianship estates for which respondent served as guardian, and trusts for which respondent served as trustee without approval of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8.

F. Order respondent to notify, in writing, all banks and financial institutions where the respondent maintains an account related to the practice of law, or related to services rendered as a personal representative of an estate, or related to services rendered as a guardian, or related to services rendered as a trustee, or where respondent maintains an account that contains funds that originated from a probate estate for which respondent was personal representative, guardianship estate for which respondent was guardian, or trust for which respondent was trustee, of the provisions of this Court's order and to provide all the aforementioned banks and financial institutions with a copy of this Court's order.

Further, respondent shall be required to provide Bar Counsel with an affidavit listing each bank or financial institution respondent provided with a copy of said order.

G. Order respondent to immediately comply with and provide all documents and testimony responsive to a subpoena from The Florida Bar for trust account records and any related documents necessary for completion of a trust account audit to be conducted by The Florida Bar.

Respectfully submitted,

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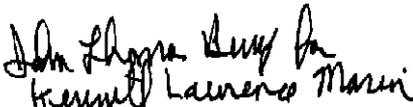
and



JOHN F. HARKNESS, JR.
Executive Director
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished by hand delivery to the Supreme Court of Florida, Supreme Court Building, 500 South Duval Street, Tallahassee, Florida, 32399-1925; a copy of the foregoing has been furnished by certified mail no. 7010 0780 0001 6735 8377, return receipt requested, to Respondent, William Timothy O'Toole, whose record bar address is 1489 W. Palmetto Park Road, Suite 494, Boca Raton, Florida 33486-3332, and that a true and correct copy of the petition has been e-served to wtotoole@bellsouth.net and a copy of the foregoing has been furnished by regular U.S. mail to Bar Counsel, Sheila Marie Tuma, The Florida Bar, Orlando Branch, The Gateway Center, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, this 14th day of July, 2011.



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