

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

SCOT STREMS,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2021-70,075 (11C-OSC)

_____/

**PETITION FOR CONTEMPT FOR RESPONDENT'S VIOLATION OF
THE SUPREME COURT'S JUNE 9, 2020 EMERGENCY SUSPENSION
ORDER**

Petitioner, The Florida Bar, by and through undersigned counsel, files this Petition for Contempt for Respondent's Violation of this Court's June 9, 2020 Emergency Suspension Order (the "Contempt Petition"), and in support sets forth the facts and argument below:

I. Background: The Suspension Order and related rules

1. On June 5, 2020, The Florida Bar filed its Petition for Emergency Suspension against respondent (the "Petition").

2. On June 9, 2020, the Florida Supreme Court entered its order granting the Petition and suspending respondent's license (the "Suspension Order").¹

¹ The Petition and Suspension order are filed in the related case *The Florida Bar v. Scot Stremms*, Case No. SC20-806.

3. At the time the Suspension Order was entered, respondent was the sole owner of his law firm, the Strems Law Firm, P.A. (“SLF”).

4. Relevant to this Contempt Petition, the Suspension Order provides, in part:

The Petition for Emergency Suspension filed pursuant to Rule 3-5.2 of the Rules Regulating the Florida Bar is approved and it is hereby ordered that Respondent is suspended from the practice of law until further order of this Court, and Respondent is ordered:

- a. To accept no new clients from the date of this Court’s order and to cease representing any clients after thirty days of this Court’s order. ...
- b. To immediately furnish a copy of Respondent’s suspension order to all clients, opposing counsel and courts before which Respondent is counsel of record ...

5. The Suspension Order necessarily implicates Rule 3-5.2(f),² which provides:

New Cases and Existing Clients. Any order of emergency suspension issued under this rule will immediately preclude the attorney from accepting any new cases and unless otherwise ordered permit the attorney to continue to represent existing clients for only the first 30 days after issuance of an emergency order. ...

6. By its plain language, Rule 3-5.2(f) is a substantive component of the Suspension Order.

² Citations to “Rule X-Y.Z” reference the corresponding rule in the Rules Regulating the Florida Bar, as amended.

7. The 30-day period in the Suspension Order and Rule 3-5.2(f) expired July 9, 2020.

II. Timeline: Respondent's suspension and the sale of SLF

8. Following the Suspension Order, SLF continued to send letters of representation to insurance companies. *See generally* Composite Exhibit A. These letters notified insurance carriers of SLF's involvement in newly-brought claims, and they further directed the insurers to communicate with the firm directly. *See id.* The letters also direct the insurers to pay "any and all payments and/or drafts of insurance proceeds" to SLF. *See id.*, p. 1.

9. On or about July 1, 2020, respondent filed Articles of Amendment to the Articles of Incorporation of SLF. *See generally* Exhibit B. In this amendment, respondent renamed SLF to the "Property Advocates, P.A." ("Property Advocates"). *See id.*, p. 2. In the July Amendment, respondent also caused SLF to issue 1,000,000 shares of the firm at \$0.10 per share. *See ibid.*

10. That same day, respondent sent a letter to his clients. *See* Exhibit C. A copy of the Suspension Order accompanied the letter, which explained that: "The ownership of The Strem Law Firm is changing by advancing three of our present lawyers as shareholders. As well, I will no longer be the owner of the law firm or involved at the firm because of this change of ownership." *Ibid.*

Respondent goes on to explain that "[t]he new name of the firm will be **The**

Property Advocates P.A. and if you see that name on further papers we send to you there is no reason for your concern.” *Ibid.* (emphasis in original). The letter goes on to state that “we greatly value your confidence in us as your attorneys to complete your claim and get the best result for you possible for the damages to your home.” *Ibid.* Further, respondent states that “[w]e will stay in touch over the next few weeks and bring you up to date on our continuing efforts on your behalf.” *Ibid.*

11. This letter was signed by respondent and sent on SLF letterhead. *See generally ibid.*

12. In an undated e-mail to SLF employees sent about this time, firm COO Cynthia Montoya wrote:³

This email is to advise you all that the ownership of The Stremms Law Firm is changing during the next week. Mr. Scot Stremms will no longer be the owner of the law firm because of this change of ownership. We make certain, that we are going to sustain the reputation and standing that we have managed to build for the last 12 years. The new stockholders will be announced next week.

We are notifying you that other than the change in ownership and name, there is no change in the management and policies of the firm. The new firm name will now be **The Property Advocates, P.A.** We want everyone to rest assured that your jobs and positions remain secure and there will be no change in employee benefits.

Exhibit D (emphasis in original).

³ Though this e-mail is undated, it is believed to have been sent shortly after the renaming of SLF on July 1, 2020 based upon its contents.

13. On July 7, 2020, respondent testified in proceedings before Judge Dawn Denaro, Referee, during the hearing on his motion to terminate or modify the Suspension Order. At that time, respondent testified that “[t]he petition has put me in a position to have to consider selling the firm. And if, in fact, I am suspended, that is what we’re going to have to do.” *See* Exhibit E, 282:4-7.

14. On July 9, 2020, SLF n/k/a Property Advocates filed its 2020 annual report. *See* Exhibit F. The report listed four of respondent’s former subordinates as the new officers of the firm. Specifically, Hunter Patterson is listed as president and director; Cecile Mendizabal is listed as director, Christopher Narchet is listed as treasurer, and Orlando Romero is listed as secretary. *See ibid.*

15. On July 20, 2020, respondent’s counsel wrote to bar counsel to advise, in relevant part, that: “As you know Scot Stremms sold his interest in The Stremms Law Firm, and it has been purchased by three attorneys and renamed Property Advocates, PA.” *See* Exhibit G.

III. The reorganization has resulted in substantial confusion in the courts

16. In a bid to keep its cases moving, Property Advocates has filed numerous documents captioned both “Notice of Change of Firm Name and E-mail Addresses” and “Notice of Change of Attorney of Record Within Firm, Designation of Email Address & Directions to Clerk to Update Attorney Information” (“Notices of Change”). These Notices of Change disclose the change

in SLF's name to Property Advocates. *See generally* Composite Exhibit H. These notices also purport to identify new counsel of record, and purport to direct the clerk to remove "[a]ny other Attorneys of Record" on the case. *See id.*

17. These Notices of Change are not motions to substitute or withdraw counsel.

18. Furthermore, the Notices of Change are not accompanied by any document signed by Property Advocates purported clients authorizing their representation.

19. The appearance of an attorney in court proceedings is governed by Fla. R. Jud. Admin. 2.505(e), which provides, in relevant part:

(e) Appearance of Attorney. An attorney may appear in a proceeding in any of the following ways:

- (1) By serving and filing, on behalf of a party, the party's first pleading or paper in the proceeding.
- (2) By substitution of counsel, but only by order of court and with written consent of the client, filed with the court. ...
- (3) By filing with the court and serving upon all parties a notice of appearance as counsel for a party that has already appeared in a proceeding *pro se* or as counsel for a party that has already appeared in a proceeding by non-withdrawing counsel.

20. The Notices of Change did not effectuate an appearance of counsel pursuant to Fla. R. Civ. P. 2.505(e). These notices are not the "first pleading or paper in the proceeding," as required by part (e)(1). These notices are not motions for substitution as required by part (e)(2). The firm's purported clients are not *pro*

se parties, nor is Property Advocates appearing as co-counsel with other attorneys, as per part (e)(3).

21. The termination of an attorney's appearance is governed by Fla. R. Jud. Admin. 2.505(f), which provides, in relevant part:

(f) Termination of Appearance of Attorney. The appearance of an attorney for a party in a proceeding shall terminate only in one of the following ways:

(1) Withdrawal of Attorney. By order of court, where the proceeding is continuing, upon motion and hearing, on notice to all parties and the client, such motion setting forth the reasons for withdrawal and the client's last known address, telephone number, including area code, and email address.

(2) Substitution of Attorney. By order of court, under the procedure set forth in subdivision (e)(2) of this rule.

(3) Termination of Proceeding. Automatically, without order of court, upon the termination of a proceeding, whether by a final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal, where no appeal is taken.

22. The Notices of Change do not satisfy any of the provisions of Fla. R. Jud. Admin. 2.505(f).

23. Consequently, the Notices do not affect any termination of any attorney appearance.

24. Pursuant to Fla. R. Jud. Admin 2.505(f), respondent and/or SLF remain counsel of record in all or nearly all of its pending cases.

25. Furthermore, in many cases, there has been no filing at all regarding SLF's reorganization. For example, in *Francisco v. Citizens Prop. Ins. Corp.*, Case No. CACE-17-012411 in the 17th Judicial Circuit in and for Broward County, neither SLF nor Property Advocates has filed anything since the Suspension Order was entered, even though the case is set for trial in October. Similarly, in *Vera v. Am'n Traditions Ins. Co.*, Case No. 2019-CC-000724 in the 9th Judicial Circuit in and for Osceola County, plaintiff's counsel has filed nothing at all since July 22, 2019. Each of these cases are currently pending with respondent and/or SLF as counsel of record.

26. Furthermore, in almost all cases where a Notice of Change was filed, such filing almost always occurred after the expiration of the 30-day wind-down period in the Suspension Order. For example, a Notice of Change was not filed until August 24, 2020 in *Garcia v. United Prop. & Cas. Ins. Co.*, Case No. 2015-CA-001016 in the 20th Judicial Circuit in and for Lee County.

27. The Florida Bar cannot presently ascertain the number of cases in which there has been no filing to advise the court or the parties regarding respondent's suspension or his firm's reorganization.

28. Beginning shortly after SLF's transition into the Property Advocates, courts and litigants across the state expressed confusion about whether Property Advocates were in fact authorized to represent its purported clients.

29. In some cases, trial judges directed Property Advocates to explain how the firm came to represent SLF's clients. For example, in the 13th Judicial Circuit in and for Hillsborough County, Florida, Judge Paul Huey's chambers sent correspondence to senior attorneys at Property Advocates that read: "For any hearings taking place before Judge Huey, Circuit Civil, Division I, Hillsborough County, Florida, please e-file and upload to JAWS proof signed by your client in each case that they have hired specifically 'The Property Advocates, P.A.'" Exhibit I, p. 3. Though Property Advocates did file a response to this correspondence (as discussed below), it did not provide signed proof that the firm had been retained by its purported clients, as directed by Judge Huey. *See generally id.*

30. In another case in the 13th Judicial Circuit, Judge Gregory Holder dismissed one of SLF's cases for lack of prosecution. Upon Property Advocates' motion for rehearing, Judge Holder entered an order which read, in relevant part:

The foundational issue that this Court must address before the Court can properly rule upon the Plaintiff's Motion is the proper representation of the Plaintiff, Eugene Harris. The Court has taken Judicial Notice of the June 9, 2020 Order of the Florida Supreme Court issuing an Emergency Suspension of Mr. Scot Stremms of The Stremms Law Firm, P.A. The Court has fully reviewed the stringent and exact requirements set forth within this detailed Order of Suspension. The Court also notes that the original Complaint filed in this matter reflects representation by Stremms Law Firm, P.A., Attorney for Plaintiff. This Court having reviewed the Plaintiff's Motion for

Rehearing, the court file, and being otherwise duly advised in the premises, it is:

ORDERED AND ADJUDGED that Counsel for the Plaintiff shall by 12:00 pm, on Friday, July 31, 2020, submit a detailed memorandum of law setting forth the authority of both Melissa A. Giasi, Esquire, and Jonathan Drake, Esquire, to represent the Plaintiff, Eugene Harris in this matter. The memorandum submitted by Plaintiff's Counsel shall address Counsel's compliance with any and all applicable Rules of Court, including, and to the extent they may apply, Rule 4-1.17(b) and (c) of the Rules Regulating the Florida Bar as well as Rule 2.505(e)(1), Fla. R. Jud. Admin. Counsel shall attach any and all documents, including any related/required notices to client, regarding these fundamental issues of Counsel's authority to represent the Plaintiff, Mr. Eugene Harris. The Court shall defer ruling on the Plaintiff's Motion for Rehearing pending review of the required memorandum.

Exhibit J.

31. In other cases in different courts, insurers have filed motions challenging the authority of Property Advocates to represent SLF's clients. For example, the defendant insurer filed a motion to stay the proceedings in *Wilson v. Southern Fidelity Ins. Co.*, Case No. 20-000885 CACE 21 in the 17th Judicial Circuit in and for Broward County, Florida. *See generally* Exhibit K. More specifically, the insurer sought "an Order staying any further litigation until an order for substitution of counsel has been entered." *Id.*, p. 1 (emphasis in original). This motion is rooted mainly in respondent's and Property Advocates' failure to comply with Rule 4-1.17 by failing to provide the requisite notice to clients and failing to substitute counsel. *See id.*, pp. 2-7.

32. Judge Michele Towbin Singer granted this motion on August 4, 2020. In relevant part, that order provided that the “Court hereby stays the proceedings until Mr. Davis [for Property Advocates] can file a substitution of counsel and accompanying proof of consent by Plaintiff and Court grants substitution of counsel.” Exhibit L.

33. Insurers in other cases have moved for similar relief, with similar results. For example, Judge Caroline Tesche Arkin entered a similar stay in *Mederos, et al. v. Citizens Prop. Ins. Corp.*, Case No. 19-CA-005837 in the 13th Judicial Circuit in and for Hillsborough County, Florida. *See generally* Exhibit M. The purpose of that stay was to afford the court an opportunity to hold an evidentiary hearing regarding Rule 4-1.17, Fla. R. Jud. Admin. 2.505, and other issues. *See id.*, p. 1. More recently, Judge Holder entered a similar order in *Baca v. Citizens Prop. Ins. Corp.*, Case No. 17-CA-002198 in the 13th Judicial Circuit in and for Hillsborough County, Florida. *See* Exhibit N.

34. In yet other cases, defendants have taken a somewhat different approach. For example, in *Torres v. Southern Fidelity Ins. Co.*, 2020 CA 001269 in the 9th Judicial Circuit in and for Osceola County, Florida, the insurer filed a motion to strike Property Advocates’ Notice of Change, and to compel compliance

with the Suspension Order. *See* Exhibit O.⁴ Unlike the motion in the *Wilson* case, this motion was premised on Rule 4-5.8. Under that rule, in the event that an attorney leaves a law firm, the firm’s clients must be provided options “to choose to remain a client of the law firm, to choose representation by the departing lawyer, or to choose representation by other lawyers or law firms.” Rule 4-5.8(d)(1). Alternatively, in the event that a firm is dissolved, the client must also receive notice that provides options “to choose representation by any member of the dissolving firm, or representation by other lawyers or law firms.” Rule 4-5.8(d)(2).⁵ In either case, of course, no such notice was ever sent to SLF’s clients.

35. In various ways, Property Advocates has responded to these calls in a bid to prove that it in fact represented the plaintiffs. As to Judge Holder’s order to address Rule 4-1.17 specifically, Jonathan Drake, Esq. explained that “compliance with that rule is not mandated.” Exhibit P, p. 3. Such has been Property Advocates’ position in its responses, which in most if not all cases are supported by an opinion letter from the firm’s counsel. In the *Harris* case, for example, the substance of that opinion follows:

As you read the [Suspension] Order, the introductory paragraph orders that Scot Stremms is suspended from the practice of law, then beginning with paragraph a. on the first page, the Court has ordered Mr. Stremms to do or not do a variety of chores (e.g.,

⁴ This motion also notes that respondent failed to serve a copy of the Suspension Order on defense counsel, as required by paragraph b of the Suspension Order. *See* Ex. O, ¶ 18.

⁵ In the context of this rule, the defendant insurer argues that the Suspension Order legally disqualified respondent from the practice of law, necessitating the dissolution of his firm under Rule 4-8.6(c), (e), and (f). *See id.*, ¶¶ 8-9.

prohibiting accepting new clients (Par a.); sending notices and the Order to all clients, opposing counsel the courts, (Par b.), various prohibitions and sending notices regarding trust accounts etc.

Under such circumstances, Rule 4-1.16 of the Rules Regulating the Florida Bar most pointedly governs Mr. Strem's carrying out his obligations under the Order. ... This rule deals with a lawyer who must "withdraw from the representation of the client if the representation will result in violation of the Rules of Professional Conduct." Rule 4-1-1.16(a)(a) [sic]. Mr. Strem left the firm and is no longer a stockholder, officer and director of the Firm.

Rule 4-1.16(b)(1) cautions that the withdrawal should "be accomplished without material adverse effect on the interests of the client." Mr. Strem has not handled on a regular basis virtually any of the clients of the firm. Three existing lawyers at the firm have become officers of the firm, and two lawyers as directors. ... Moreover, the name of the Firm was changed to The Property Advocates, P.A., so that Mr. Strem's name will not be attached to the firm – and, at the same time, the most important aspect of the Rule, i.e., "without material adverse effect on the interests of the client." The clients continue to remain clients of the Firm, albeit with a name change – and, most importantly, the clients will continue to be represented by the *same lawyers* both before and after the issuance of the Order...thereby ensuring that the clients' representation will be "without material adverse effect on the interests of the client." *Ibid.*

...It is important to recognize the law firm chosen by the Plaintiff is the *same* law firm before and after the issuance of the Florida Supreme Court's June 9, 2020 Order. It has been The Property Advocates, P.A. formerly known as The Strem Law Firm, P.A. – and that Ms. Giasi has also been added by the recent motions.

We are aware that there are some who may believe that the Firm was required to follow the Sale of Law Practice under

Rule 4-1.17. ... While this Rule conceivably may be employed, it is hardly mandated. The Order does NOT deal with the law firm and does NOT require the law firm to be sold. Instead, the Order requires Mr. Strems to follow various steps as set forth above – all of which have been accomplished, and NONE of which require the sale of the practice. Mr. Strems has no interest in the law firm and does NOT practice law. The transition has been carried out with the interests of the clients first and foremost. The clients continue to be represented by the *same* licensed members of The Florida Bar before, during and after the Order was issued. Indeed, Rule 4-1.16(h)(1) makes clear that the changes contemplated by Order should, indeed must be accomplished “without material adverse effect on the interests of the client.” The Supreme Court did NOT require that the firm’s clients must obtain new counsel. Indeed, the inherent complications of a different law firm will eventually require a *quantum meruit* analysis when and if there is a judgment or a settlement, let alone all of the inherent and unnecessary delay in this case. It also follows that because there has been no change in Mr. Harris’ lawyers, there is no need to enter new appearances.

Exhibit P, pp. 14-15 (Exhibit “E”).

36. The opinion letters filed by Property Advocates are not identical, but they each reach the same conclusion based on the same analysis. *See, e.g.*, Exhibit I, pp. 1-2.

37. In these opinion letters, Property Advocates’ counsel does not cite part (d) of that rule, which provides:

(d) Protection of Client’s Interest. 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. ...

(emphasis supplied).

38. Accordingly, the unusual fiction put forward by Property Advocates has created a pervasive uncertainty in courtrooms across the state regarding the simple, axiomatic issue of whether Property Advocates is in fact authorized to represent the parties it purports to represent.

39. This doubt and confusion could be resolved by the simple written authorization of the firm's purported clients, but to date The Florida Bar is unaware of any case in which such authorization has been provided.

40. Instead, litigants and courts across the state must now expend considerable time, effort, resources, and money to unwind this fundamental issue.

IV. Respondent violated the Suspension Order in letter and spirit

41. Respondent has repeatedly violated paragraphs a. and b. of the Suspension Order, and several of these violations are continuous and ongoing.

Respondent failed to notify clients of his suspension "immediately"

42. The June 9, 2020 Suspension Order required respondent to "immediately furnish a copy" of his suspension order to all clients.

43. Respondent did not notify any of his clients until his July 1, 2020 correspondence 22 days after the Suspension Order was entered. *See* Exhibit C.

44. Respondent did not notify his clients of his suspension until SLF had renamed itself Property Advocates on that same date. *See Exhibit B.*

45. Accordingly, respondent did not notify his clients of his suspension until he had devised a means for transferring those clients to his former associates.

Respondent continued to take on new cases in violation of Rule 3-5.2(f)

46. Rule 3-5.2(f) provides that: “Any order of emergency suspension...will immediately preclude the attorney from accepting any new cases....”

47. By entering the Suspension Order, respondent became subject to Rule 3-5.2(f), and was prohibited from taking new cases.

48. Respondent and SLF continued to take new cases after the Suspension Order was entered on June 9, 2020.

49. More specifically, SLF continued to send letters of representation to insurance companies after June 9, 2020. *See generally* Composite Exhibit A.

50. Naturally, these letters of representation served as SLF’s first notice to insurers that the firm was involved in the case.

51. SLF’s letters of representation direct the insurer to make payments to the firm, and further provide all relevant payment details and instructions.

52. SLF's letters of representation clearly evidence the firm's intent to begin settlement discussions with the insurer. Of course, litigation generally follows when such discussions are unsuccessful.

53. SLF's letters of representation clearly evidence the firm's intent to collect insurance proceeds in connection with the firm's ongoing and future services.

54. Accordingly, SLF continued to accept "new cases" in violation of Rule 3-5.2(f).

55. By its plain language, Rule 3-5.2(f) is a substantive extension of the Suspension Order.

56. Consequently, respondent's violations of Rule 3-5.2(f) constitute violations of the Suspension Order.

Respondent remains counsel of record in violation of the Suspension Order

57. The Suspension Order required respondent to cease representing his clients thirty days after the order, *i.e.*, on or before July 9, 2020.

58. As explained above, neither SLF nor Property Advocates filed motions to withdraw or substitute counsel in any pending cases.

59. As explained above, neither SLF nor Property Advocates caused the termination of Respondents and/or SLF's representation in any pending cases pursuant to Fla. R. Jud. Admin. 2.505(f).

60. As explained above, Property Advocates never entered an appearance in any pending case pursuant to Fla. R. Jud. Admin. 2.505(e).

61. Consequently, respondent and SLF remain counsel of record in thousands of pending cases across the state.

62. Respondent's and SLF's continued representation of clients violates the express terms of part a. of the Suspension Order.

Respondent continues to hold himself out as an attorney on social media

63. The Facebook page for SLF remains open and operational. *See* Exhibit Q. The page includes advertisements and testimonials for the firm, as well as the firm's contact information. *See ibid.* Notably, there were several promotional posts made throughout the month of June (during the 30-day wind-down period under the Suspension Order). *See ibid.*

64. Respondent maintains a LinkedIn profile in which he claims the title "Owner at The Strems Law Firm, P.A." *See* Exhibit R. The profile describes respondent as:

Dedicated Miami lawyer who has a true passion for helping those in need. With experience ranging from Insurance Litigation to Criminal Defense, there is no situation that I cannot guide my clients through. I know what it takes to protect my clients and make them feel a sense of peace knowing I'm going to fight to the fullest extent.

Ibid.

65. Accordingly, respondent continues to hold himself out to the public as an attorney in good standing.

Respondent has violated the clear intent and spirit of the Suspension Order

66. In simple terms, the Suspension Order required respondent to wind down his law practice in 30 days, and further required him to disclose his suspension “immediately” to all courts, opposing counsel, and perhaps most importantly, respondent’s clients.

67. The clear intent of part a. of the Suspension Order is to halt respondent’s practice of law, at least temporarily.

68. Respondent’s law practice has not halted or even meaningfully slowed.

69. Rather, respondent and SLF remain counsel of record in thousands of cases across the state, as explained above.

70. Respondent also continued to accept and initiate new cases following the Suspension Order, as explained above.

71. Furthermore, in a bid to keep his practice moving, respondent purports that his clients were all somehow transferred to his former associates at Property Advocates, who presently seek to continue this representation without the requisite substitution of counsel.

72. The clear intent of part b. of the Suspension Order is to put respondent's clients on notice of these proceedings, which obviously affect the clients' interests.

73. While respondent provided copies of the Suspension Order to his clients some 22 days after it was entered, respondent took active steps to diminish the significance of the Suspension Order and took active steps to keep his clients ignorant of their rights and alternatives.

74. In his July 1, 2020 letter to clients, respondent advises that "there is no reason for your concern" regarding the sweeping pattern of misconduct described in the Emergency Suspension Petition. *See* Exhibit C.

75. More specifically, respondent told his clients that "there is no reason for your concern" as he was handing them over to the very same attorneys who assisted him in carrying out the pattern of misconduct described in the Emergency Suspension Petition. *Id.*

76. Respondent told his clients that "there is no reason for your concern" as he was handing them over to the very same attorneys who respondent himself implicated in the pattern of misconduct described in the Emergency Suspension

Petition. *Id.*; *see also* June 26, 2020 Motion to Dissolve Order of Suspension, p. 17.⁶

77. Respondent told his clients that “there is no reason for your concern” knowing that the attorneys of SLF/Property Advocates had no intention of reforming their practice. *See* Exhibit D (explaining to the firm “that other than the change in ownership and name, there is no change in the management and policies of the firm.”).

78. The intent of respondent’s July 1, 2020 letter is not to safeguard the clients’ interests or advise them of their options.

79. Rather, the clear intent of respondent’s July 1, 2020 letter is to lull his clients into complicity with the firm’s reorganization and continuation of practice.

80. To this end, respondent, SLF, and Property Advocates have repeatedly and intentionally refused to advise their clients of their rights and alternatives in light of present circumstances.

81. Rule 4-5.8(b) provides that “Clients have the right to expect that they may choose counsel when legal services are required and, with few exceptions, nothing that lawyers and law firms do affects the exercise of that right.”

82. In keeping with Rule 4-5.8(b), the Rules Regulating the Florida Bar require an attorney to advise a client of his or her right to secure different counsel

⁶ This motion was filed in the emergency suspension proceedings captioned *The Florida Bar v. Scot Stremms*, Case No. SC20-806.

in the event that the attorney's relationship with the client or the law firm is coming to an end. For example, the rules require an attorney to make such disclosure in the case that:

- a. An attorney leaves a law firm. *See* Rule 4-5.8(c)(1) and (d)(1).
- b. An attorney's law firm dissolves. *See* Rule 4-5.8(c)(2) and (d)(2).
- c. An attorney sells his firm. *See* Rule 4-1.17.

83. As a consequence of the Suspension Order, respondent could no longer practice law or be a member of the law firm. Accordingly, the Suspension Order required respondent to undertake at least one of the three potential paths described in the previous paragraph: his departure from SLF; the dissolution of SLF; and/or the sale of SLF.

84. Based on the record in this case, respondent chose to sell SLF, triggering the requirements of Rule 4-1.17.

85. On July 1, 2020, respondent caused SLF to issue 1,000,000 shares at \$0.10 each (for a total of \$100,000.00 in shares). *See* Exhibit B. These shares and their purported value presumably relate to a financial transaction involving the firm.

86. Before respondent sold SLF, Cynthia Montoya—SLF's chief operating officer—advised employees of the firm that the firm would change ownership. *See* Exhibit D.

87. During the hearing on July 7, 2020, respondent testified in these proceedings that he intended to sell the firm. *See* Exhibit E, 282:4-7.

88. On July 9, 2020, the newly-formed Property Advocates filed their annual report identifying—for the first time—that attorneys Hunter Patterson, Christopher Narchet, Orlando Romero, and Cecile Mendizabal were the new officers and directors of Property Advocates f/k/a SLF. *See* Exhibit F.

89. In a letter to The Florida Bar dated July 20, 2020, respondent’s counsel in these disciplinary proceedings expressly represented that respondent had in fact sold SLF to certain former associates. *See* Exhibit G.

90. Accordingly, respondent did in fact sell SLF, triggering obligations under Rule 4-1.17.

91. Through counsel, Property Advocates has opined that Rule 4-1.17 is inapplicable because the transfer of SLF’s ownership was not a “sale” for purposes of that rule.

92. Rule 4-1.17 does not define “sale,” nor does the rule limit its own applicability to certain types of sale transactions.

93. Simply put, Rule 4-1.17 applies to any sale of a law firm.

94. Property Advocates and their counsel do not deny that ownership of the firm changed hands for value.

95. Such a transaction is a sale.

96. Nonetheless, Property Advocates and their counsel appear to argue that this transfer of ownership for value is some manner of transaction other than a “sale.”

97. Neither Property Advocates nor their counsel provide a name for such a transaction, nor do they explain how such a transaction was carried off.

98. The Rules Regulating the Florida Bar do not recognize a transaction where the ownership of a law firm is transferred for value, unless such transaction is a sale within the meaning of Rule 4-1.17.

99. Accordingly, this transaction triggered the duty to notify clients pursuant to Rule 4-1.17(b), which provides:

(b) Notice to Clients. Written notice is served by certified mail, return receipt requested, on each of the seller’s clients of:

(1) the proposed sale;

(2) the client’s right to retain other counsel; and

(3) the fact that the client’s consent to the substitution of counsel will be presumed if the client does not object within 30 days after being served with notice.

100. Respondent’s July 1, 2020 letter to clients satisfies none of these requirements.

101. Neither respondent nor Property Advocates sent any other notice to the firm’s clients.

102. Accordingly, none of the firm’s clients have been advised of their right to counsel of their choice.

103. Counsel for Property Advocates opines—without evidence or significant analysis—that the applicable rule is 4-1.16 and not 4-1.17 (or another rule).

104. Counsel for Property Advocates does not explain why rule 4-1.16 must be read to the exclusion of Rule 4-1.17, or in the alternative to that rule.

105. In any case, Rule 4-1.16(d) would require that respondent “take steps to the extent reasonably practicable to protect a client’s interest, such as giving reasonable notice to the client, [and] allowing time for employment of other counsel... .”

106. Accordingly, there is substantial overlap between Rules 4-1.17(b) and 4-1.16(d) in that both require that respondent’s clients receive some notice and opportunity to obtain new counsel.

107. Notwithstanding these clear requirements, such notice was never provided to the clients of respondent or Property Advocates.

108. Respondent’s active efforts to diminish the urgency of these proceedings to his clients, along with his and Property Advocates’ refusal to provide the required notices to those clients, amount to a violation of the intent and the spirit of the Suspension Order.

109. In their efforts to retain clients and keep the practice moving, respondent and Property Advocates offer only token compliance with the Suspension Order, refuse to withdraw or substitute counsel in their cases (which would require client approval and signature), and refuse to provide their the client notices required by the Rules Regulating the Florida Bar.

110. This contrivance has two purposes:

- a. It preserves respondent's legal argument (contrary to fact) that respondent was not counsel of record in any of his firm's cases—a fact which would be implicitly conceded by the filing of motions to withdraw or substitute counsel.
- b. It protects Property Advocates' financial interests by denying the firm's clients the opportunity to secure separate counsel.

111. By design, these efforts place the interests of respondent and Property Advocates above those of their clients.

112. Alarming, Property Advocates' counsel opines that the best way to protect the clients' interests is to avoid any action that would actually require notice to or communication with the client regarding these issues, such as motions to substitute counsel or the transmission of Rule 4-1.17(b) notices. *See generally* Exhibit P, pp. 14-16 (Exhibit "E").

113. Put differently, respondent and Property Advocates contend that their clients' interests are best served by being kept in the dark and forfeiting any opportunity to obtain new counsel.

114. The positions of respondent and Property Advocates are repugnant to the Rules Regulating the Florida Bar, which expressly contradict these positions for the reasons stated above.

115. The comment to Rule 4-1.17(b) provides that: “The practice of law is a profession, not merely a business. Clients are not commodities that can be purchased and sold at will.” *Id.*, (emphasis supplied).

116. Nonetheless, this is precisely what respondent and Property Advocates attempt to achieve: the sale of clients as chattel.

117. Neither the Suspension Order nor the Rules Regulating the Florida Bar permit the outcome that respondent and Property Advocates now ask courts to indulge statewide.

118. Furthermore, to the extent that Property Advocates argues that clients’ interests are best served by continuing their relationship with former SLF attorneys, that argument runs contrary to the facts.

119. As shown throughout this case, the pattern of misconduct described in the Emergency Suspension Petition is continuous and ongoing, having resulted in sanctions issued against the firm *during these proceedings*.

120. Indeed, such sanctions continue to be incurred even after SLF’s reorganization as Property Advocates. Just earlier this month, Federal Magistrate

Judge Jonathan Goodman recommended a \$55,000.00 sanction be split between Property Advocates' client and counsel. *See* Exhibit S.

121. Accordingly, clients continue to be harmed by the conduct of SLF n/k/a Property Advocates.

122. Based on the foregoing, respondent has repeatedly violated the Suspension Order in letter and spirit, and such violation is continuing in nature.

123. Respondent and Property Advocates have made concerted and ongoing efforts to circumvent the Suspension Order as well as the ethical rules that are implicated as a consequence of the Suspension Order.

124. Furthermore, these concerted and ongoing efforts by respondent and Property Advocates are jeopardizing the interests of their clients and causing an even deeper strain on the resources of the judiciary. In that way these efforts are a continuation of the pattern of misconduct described in the Petition for Emergency Suspension.

WHEREFORE, The Florida Bar respectfully requests that the Court enter an order (i) holding respondent in contempt of the Suspension Order; (ii) requiring respondent to send his clients written notices in keeping with Rule 4-1.17(b); (iii) requiring respondent to withdraw or substitute counsel (as necessary) in his clients' cases; and (iv) granting any other relief the Court finds just and appropriate under the circumstances including, but not limited to, disbarment.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify that this Petition for Contempt for Respondent’s Violation of The Supreme Court’s June 9, 2020 Emergency Suspension Order has been E-filed using the Efiling Portal with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided via email to Scott Kevork Tozian, attorney for respondent, at stozian@smithtozian.com; and by United States Mail via certified mail No. 7017 3380 0000 1082 8239, return receipt requested, to Scott Kevork Tozian, attorney for respondent, whose record bar address is 109 N. Brush Street, Suite 200, Tampa, Florida 33602, and a copy provided via email to Mark Alan Kamilar, attorney for respondent, at kamilar@bellsouth.net; and by United States Mail via certified mail No. 7017 3380 0000 1082 8222, return receipt requested, to Mark Alan Kamilar, attorney for respondent, whose record bar address is 2921 SW 27th Avenue, Miami, Florida 33133, and a copy provided via email to Benedict P. Kuehne, attorney for respondent, at ben.kuehne@kuehnelaw.com; and by United States Mail, via certified mail No. 7017 3380 0000 1082 8215, return receipt requested, to Benedict P. Kuehne, attorney for respondent, whose record bar address is 100 SE 2nd Street, Suite 3105, Miami, Florida 33131, and a copy provided via email to Kendall Coffey, attorney for respondent, via email at kcoffey@coffeyburlington.com; and by United States Mail, via certified mail No. 7017 3380 0000 1082 8246, return receipt requested, to Kendall Coffey, attorney for respondent, whose record bar address is 2601 So.

Bayshore Drive, Penthouse, Miami, Florida 33133 and via email to Patricia Ann Toro Savitz, Staff Counsel, at psavitz@floridabar.org; on this 27 day of August 2020.

A handwritten signature in black ink, appearing to read "JDW".

JOHN DEREK WOMACK
Bar Counsel