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IN THE SUPREME COURT OF FLORIDA

CLERK, SUPREME COURT

August 15, 1995

By _____
Chief Deputy Clerk

RE THE FLORIDA BAR
V.
JOSEPH V. CANTO

CASE NO(s). 84,214 & 85,007; also

TFB File No(s). 93-00710-04D, and
94-00540-04D

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RESPONSE AND NOTICE

This acknowledges receipt of the Court's notice informing the undersigned (herein "Canto") that the "Temporary Injunction Enjoining Defendant Salter From His Duties As Trustee" will be considered at the time the Court determines the merits of the case.

The very fact that this Court has agreed to consider the merits of this cause gives Canto a sincere feeling of much appreciation and gratitude. This is because once it addresses the refusal of five circuit court tribunals to address the numerous applications for default submitted by the Plaintiffs; the first of which was filed on May 25, 1993, and the last of which was filed on 18 July 1994; it will effectively result in this cause coming to an end. This, in turn, will bring Salter's criminal misconduct of stealing the funds of the Plaintiffs while under the jurisdiction of the Courts, to an end. Therefore, a brief review of the posture of this cause, combined with some background facts on Canto which will help to explain why he is so highly motivated to preserve the cause of justice and the American way of life in the courts of this great country of ours, are as follows:

1. Pursuant to the above, of primary significance in this cause, is the fact that on April 24, 1991, the state tribunal issued an order which disqualified Canto from further representing the Plaintiffs in this cause. This order was predicated on the sole grounds that Canto had to call himself as a witness in order to prove the allegations contained in an amended complaint which was at issue. It was Canto's view that this order constituted a disciplinary order under the exclusive jurisdiction of the Supreme Court pursuant to Art. V., Sec. 15, Fla. Const. and, therefore, had no legal efficacy, as it merely usurped the exclusive jurisdiction of the Florida Supreme Court.

2. As a consequence, Canto, therefore, followed a pattern in which he invoked the provisions of rule 4-3.4(c), R.Pro.Cond. which effectively permitted him to acknowledge the existence of the order, but at the same time also permitted him to make an open refusal to obey same, on the grounds that no obligation to obey existed.

3. The circuit court tribunals, however, ignored Canto's right to continue to represent the Plaintiffs, and simply would not permit him to appear at hearings on behalf of the plaintiffs. Additionally Canto was also denied the right to submit motions or other pleadings on behalf of the Plaintiffs; as well as being taken off the official mailing list, where, in order to make himself privy to what was going on, he had to, from time to time, examine the court files.

4. This conduct continued on through October 15, 1991, at which time this cause was removed to federal court on a federal question. While in federal court, the Salters having failed to comply with the provisions of rule 81(c) of the federal rules of court, which imposed on them a legal obligation to submit an answer or other appropriate pleading which would toll the time for an answer to be submitted, neglected, or otherwise refused to comply with the federal rule and, therefore, acquired a posture of default.

5. After the federal issue had been resolved and the Salters cause of action was remanded to state court, Canto, on or about 3 February 1993, made his appearance before a state court tribunal. Thereafter, he attempted to induce the presiding tribunal, judge Osee Fagan, who was then a retired judge (but who had a right to continue to preside over causes of action) to issue a temporary injunction pursuant to rule 1.610(a), Fla.R.Civ. P., which would serve to bring Salter's criminal misconduct of stealing the Plaintiffs' funds while under the jurisdiction of courts, to an end.

6. Suffice to say that said tribunal ignored the fact that a member of the legal profession was engaged in criminal misconduct; he ignored the fact that said attorney was in a posture of default, and that the allegations in the complaint were legally established as being admitted; but more importantly, he ignored the fact that the order of disqualification which had disqualified Canto on the grounds that he had to call himself as a wit-

ness had been rendered moot, as there was no need for anyone to have to be called to testify by virtue of default. This in turn, rendered said order as no longer having prospective application by virtue of rule 1.540(b)(5).

7. The above notwithstanding, on February 10, 1993, said tribunal issued an order which again disqualified Canto from representing the Plaintiffs, in which he used as grounds in support thereof the original order of June 24, 1991, which no longer had prospective application. Said tribunal, thereafter, recused himself and was replaced by judge Giunta, who addressed a motion submitted by Canto for reconsideration of judge Fagan's order of February 10th.

8. Without going into the specifics of said order of judge Giunta, suffice to say that it contained a paragraph which clearly portended what was to follow. In said paragraph he said:

Mr. Canto has been removed as Plaintiffs' counsel and that is the established law of the case. His continued filing of pleadings and motions are not permissible, and his pleadings and motions described above ... are nullities, violations of this court's order of April 24, 1991, and of February 10, 1993, and further subject Mr. Canto's conduct to disciplinary action by the Florida Bar.

9. Here, in said paragraph it is abundantly clear that judge Giunta had no intention of abiding with fundamental principles of law and procedure. But here also, it is not Canto's intention to go into the specifics of the manner in which the proceedings were to be conducted. Suffice to say that the Plaintiffs, who through the undersigned attorney, attempted to find other attorneys in the local area to represent the Plaintiffs, but were unable to do

so, premised on the grounds that no local attorney was willing to undertake this cause in representation of out-of-state plaintiffs against a local member of the Florida Bar.

10. Suffice to say that the net consequences that flowed thereafter from the manner in which the proceedings were held, is that the Plaintiffs were completely foreclosed from having legal representation, and Canto was, thereafter, subjected to harrassment, by being held in contempt of court for continuing to make efforts in representation of the Plaintiffs; and who was even ordered to be placed in a posture of confinement, if he didn't stop his efforts to continue with his attempts to represent the Plaintiffs.

11. It is significant to note that even the Florida Bar got into the act, by inducing the Court to appoint a referee in order to conduct a disciplinary hearing as against Canto, which had been predicated on the grounds that Canto had been disqualified from practicing law; and alledgedly while in a posture of disqualification continued to practice law. As to this issue, Canto has taken the position that the Florida Bar had no authority to have invoked the jurisdiction of the Supreme Court predicated on the grounds that the jurisdiction of a circuit judge had already been invoked pursuant to rule 3-7.8 by a complaint filed by Salter's attorney Roscow.

12. It was and is the opinion of Canto, that once the circuit court tribunal had acquired jurisdiction over Canto in a disciplinary matter, then, thereafter, pursuant to rule 3-3.5,

Rules of Discipline, the Bar was excluded from attempting to acquire jurisdiction, until there had been made a final determination by the circuit courts of the issue in question.

13. Here it is interesting to note that the Florida Bar made an attempt to intercede on behalf of Salter by filing a "Motion To Strike Respondent's Emergency Petition For Temporary Injunction Enjoining Defendant Salter From His Duties As Trustee". The question that needs to be asked here, is what authority did the Florida Bar have to interfere in the proceedings ostensibly on behalf of Salter, when, in reality, it should have encouraged his removal which would have brought Salter's criminal misconduct to an end? Particularly in view of the fact that the Bar had knowledge of the fact that there was an issue of disciplinary proceedings respecting Canto which was before a circuit court tribunal, which pursuant to a rule of discipline 3-3.5, supra, excluded the Bar from assuming jurisdiction until a final determination had been made by the circuit judge.

14. What is even more perplexing, is the fact that the Bar would not give up trying to induce this Court to have Salter retained as trustee, and thus would effectively result in this Court to also give Salter a judicial license to continue to steal the funds of the Plaintiffs while under the jurisdiction of the Courts. This was attempted in the Bar's motion to dismiss directed to this Court which the Plaintiffs received by certified mail this date (August 17, 1995). Has not the Florida Bar already served Salter well, by refusing to follow through on a complaint

filed by Canto against Salter in 1991, in which he had alleged facts relating to Salter's criminal misconduct? What benefit inures to the Bar for Salter to be permitted to continue with his acts of criminal misconduct? More importantly, what benefit does it serve the cause of justice and the American way of life? Also a review of the grounds submitted in justification of the motion, merely suggests that Canto be required to file a brief, which would only result in a redundancy of pleadings that are already before the Court, and are strictly a sham.

15. If we consider the conduct of some of the members of the Bar, and we also consider the conduct of the lower tribunals in this cause, it will serve to explain why Canto is so thoroughly frustrated with a feeling of utter helplessness at having to stand by while his clients are being robbed blind by Salter. In his life time, there has been only one other time that he has experienced such utter helplessness. This incident took place a long time ago in October of 1942, during World War Two.

16. As this Court knows Canto is a retired naval aviator, who served in the Navy from February 1941 to May 1961. During his last five years he had been certified as a Plane Commander of the Fleet Logistic Air Wing, which authorized him to be in command of air transport planes in which he was assigned as pilot. As a result he devoted a considerable amount of his time flying across the North Atlantic to places in Europe, etc. This was extremely pleasant duty.

17. However, he also recalls that before he had earned his wings and a commission, he had experienced times which were not so pleasant. One such incident took place in either September or October of 1942, as mentioned above. At this time he was serving on board the USS Wasp, an aircraft carrier which was serving as lead ship of a task force engaged in the battle of the Solomon Islands. At that time Canto held the rate of an Aviation Machinist Mate First Class, which was equivalent to a tech sergeant in the Marine Corps.

18. To make a long story short, three torpedoes were launched at the Wasp, and all three found their mark. For awhile the crew tried vainly to keep the Wasp afloat, to no avail. Finally the order to abandon ship was given, and Canto and the other survivors simply jumped into the water. While Canto was in the water he found a piece of debris, which he could hang on to in order to stay afloat; he also had a shipmate with him who was a close friend of his, but who had been seriously hurt. Thus there was the making of a scenario which resulted in Canto to experience the deepest sense of frustration and helplessness that Canto has ever had to experience.

19. This was the result of Canto while hanging on to that piece of debris and his wounded shipmate, had nothing else to do except to try to stay afloat while at the same time he also had to watch helplessly, while a number of his shipmates who could not remain afloat, sank to a watery grave. It is impossible to try to explain the sense of frustration and helplessness that he

felt, as one after another of his shipmates met a watery grave. Nevertheless, he still searches his mind and his heart to determine if he, at the very least, could not have made an effort to at least save one more person. For this reason when ever he gets into a position of apparent helplessness, he always searches for a solution, designed to bring to an end his sense of helplessness.

20. Needless to say Canto was saved and so was his wounded shipmate. Thereafter, he was shipped to the states, given a 30 day survivors leave, and returned to duty where he was immediately assigned to a Carrier Air Group Support Unit, which had as a primary responsibility to follow the marines after they took a beachhead, and thereafter penetrate further until they controlled enough land which would accomodate an air strip, which was developed by the Seabees with the help of the CASU personnel.

21. In respect to Salter, Canto has no objection for the Supreme Court to hold off dealing with the issue of Salter being removed as the trustee, until it has appropriate time to also deal with other issues that are pending before it. In this respect, however, Canto has a plan which may accomplish that objective, pursuant to law and procedure. This can be brought about by the fact that the Plaintiffs, d/b/a Landmark Associates, have a contractual right pursuant to the provisions in the Buy-Sell Agreement respecting the sale of the Landmark Apartments to the purchaser d/b/a Landmark Investors, which permits Associates

to select an agent of choice to receive the monthly payments. The payments amounts to a sum of about \$24,000.00 per month.

22. To date Salter has been receiving this monthly payment, which pursuant to the incidence of default it will result in Salter to become formally obligated to the Plaintiffs for redress of injury in a sum which to date exceeds \$3,600,000.00. Therefore, the full monthly payment should be legally considered as belonging to the Plaintiffs. This, in turn justifies the Plaintiffs to require Landmark Investors to send said payments to any agent designated by them, which effectively will bring Salter's criminal misconduct to an end.

23. Significantly the plan mentioned above, had been tried once before, but the Salters prevailed on the then presiding tribunal to issue a directive to Landmark Investors to ignore plaintiffs request to cease and desist from continuing to send Salter the Plaintiffs' funds for distribution. Thus we have another incident of tribunal misconduct detrimental to the legal rights of the Plaintiffs.

24. The above poses a very important question, and that is: What has Salter been doing to strongly motivate, not only circuit court judges to abandon there judicial responsibilities, and at the same time harass Canto throughout this cause, but as here also, he has been obviously successful in inducing members of the Florida Bar to continue unabated to harrass Canto??? The answer to that question can only suggest that our legal profession, has

apparent weaknesses, which merits the strong consideration of this Supreme Court.

25. In view of the above, Canto considers it important to act on his own initiative to bring Salter's criminal misconduct to an end, while the several issues that are before this Court are waiting to be addressed. This can be done by invoking contract rights, that Associates has as the obligee of the promissory note and mortgage executed by Landmark Investors in favor of Landmark Associates.

26. It is Canto's position that the provision in said documents which categorizes Salter as the trustee to collect the funds due to Associates, can be changed by Associates, who has as its members, all of the Plaintiffs. Therefore, Canto as the designated agent of Associates, does here direct Landmark Investors to cease and desist from continuing to send to Salter the proceeds of the note and mortgage which is due to Associates, and to send said proceeds to Canto, as the designated agent of Associates, forthwith. Landmark Investors is also advised, that if it refuses to comply with this mandate, it will result in Associates to bring an action in foreclosure on the Landmark Apartments which is secured by said note and mortgage.

27. This Court is respectfully advised that this action on the part of Associates is independant of the issues that are before this Court. However, by Associates taking the above action, it will only serve to remove the urgency to some of the issues that still have to be addressed by this Court.

COCLUSION

As previously mentioned, it should be clear to this honorable Court, that after it completes a full review of the manner in which a member of the legal profession has been able to manipulate the several circuit court tribunals who have presided over this cause to completely abandon their judicial responsibilities mandated by applicable law and procedure, as well as to infringe on the constitutional rights of the Plaintiffs and their attorney; and which also resulted in said tribunals to violate their oath of office to protect, defend and preserve the constitutions of the State of Florida, as well as, the constitution of the United States, is a disgrace which does not speak well for the legal profession and the judicial system in the courts of this great country of ours.

Furthermore, when we combine the misconduct of the circuit tribunals with the misconduct of the Florida Bar, who not only refused to address the initial complaint lodged against Salter in early 1991, but who, thereafter, seemed to act as Salter's agents to further harass Canto, in the performance of his duty, has raised some very perplexing issues which only this Court can resolve.

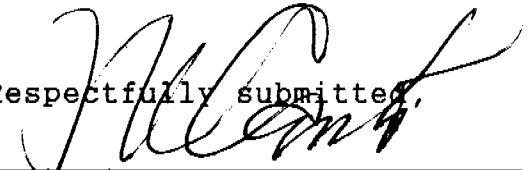
WHEREFORE, in view of the above, and in view of the prior submittals presented to this honorable Court, Canto joined by the Plaintiffs, respectfully pray for the Court to issue an order directing one of the lower circuit court tribunals to address one of the many applications for default submitted by the Plaintiffs,

and at the same time for the circuit courts to wstablish a hearing date to address the motion for final judgment to be submitted by the Plaintiffs, which will establish Plaintiffs' entitlement to compensatory damages, as will be appropriate. This in turn, will bring this cause to an end, and will bring Salter's criminal misconduct of stealing the Plaintiffs' funds while under the jurisdiction of the courts.

Canto and the Plaintiffs also pray for this Court to issue an order to remove Salter as the trustee of Associates, as a precautionary measure against this conduct continuing while it is being processed by this Court.

I HEREBY VERIFY under the penalty of perjury that the foregoing facts are true and correct to the best of my knowledge and belief.

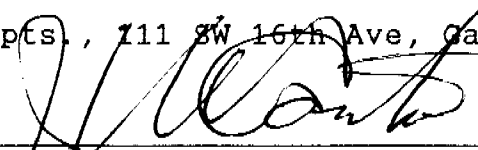
Respectfully submitted,



JOSEPH V. CANTO
Fla. Bar # 0011540

I HEREBY CERTIFY that a true and correct copy of the foregoing Response and Notice has this 21st day of August 1995 been delivered to the Florida Bar at Tallahassee, Florida, as well as to the below listed:

The House of Representatives of Florida,
The Hon. Elzie S. Sanders, Chief Judge, Eighth Circuit,
John F. Roscow, III, Esquire, and,
Landmark Investors % of Townhouse Apts., 711 SW 16th Ave, Gainesville, Florida.



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