

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Case No.: SC15-1305

Complainant,

TFB File No.: 2012-70,885(11K)

v.

ARTURO DOPAZO,

Respondent.

**APPENDIX TO INITIAL BRIEF OF
RESPONDENT, ARTURO DOPAZO**

ANDREW S. BERMAN
Florida Bar No. 370932
Young, Berman, Karpf & Gonzalez, P.A.
1001 Brickell Bay Drive, Ste. 1704
Miami, FL 33131
(305) 945-1851 (phone)
(786) 219-1980 (telefax)
Email: aberman@ybkglaw.com
Counsel for Respondent, Dopazo

RECEIVED, 10/24/2016 10:58:40 AM, Clerk, Supreme Court

Report of Referee (7/7/16). A. 1 - A. 6
Federal Bureau of Investigators FD-302 (10/21/09).. . . . A. 7 - A. 8
Federal Bureau of Investigators FD-302 (10/21/10).. . . . A. 9
Excerpt of Sentencing Hearing of Maria Victoria Suarez (2/10/11). . A. 10 - A. 14

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been delivered via email and U.S. Mail to: Patrick Russell, Bar Counsel, and Adria Quintala, Bar Counsel this 24th day of October, 2016.

YOUNG, BERMAN, KARP & GONZALEZ, P.A.
Counsel for Respondent
1001 Brickell Ave., Ste. 1704
Miami, FL 331131
Telephone: (305) 945-1851
Facsimile: (786)219-1980
Email: aberman@ybkglaw.com

By: /s/ Andrew S. Berman
ANDREW S. BERMAN
Florida Bar No. 370932

**IN THE SUPREME COURT OF FLORIDA
(Before a Referee)**

THE FLORIDA BAR,

Supreme Court Case
No. SC15-1305

Complainant,

The Florida Bar File
No. 2012-70,885 (11K)

v.

ARTURO DOPAZO III,

Respondent.

_____ /

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

On July 15, 2015 the Florida Bar filed its Complaint against Respondent Arturo Dopazo III. A Final hearing was held over multiple days in March and May 2016.

II. FINDINGS OF FACT

- A. Respondent is, and at all times mentioned during this investigation was a member of the Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.
- B. Respondent is alleged to have, through his participation in a patient/client recruiting scheme with medical clinics, obtained clients through solicitation by a nonlawyer and then to have subsequently shared legal fees with said nonlawyer. The Florida Bar specifically points to 31 payments to Miami-Dade Services, Inc. by Respondent as evidence of the referral of solicited clients. Respondent on the other hand, while acknowledging said payments explains that they were made on letters of protection for healthcare services furnished to his clients at the medical clinic(s).

Counsel for The Florida Bar acknowledges that there is no “smoking gun” directly supporting said allegations and counsel for the Respondent asserts that the portion of the Complaint of the Florida Bar described above is supported, if at all, solely by circumstantial evidence. Undersigned agrees that The Florida Bar lacks clear and convincing evidence as to that matter.

The balance of the Complaint alleges that the Respondent either directly himself or through an employee/agent, knowingly solicited the mother of an injured child at the hospital while the child was in a coma. The Florida Bar has provided clear and convincing evidence through the credible testimony of said mother that Respondent violated

Rules Regulating The Florida Bar 4-7.18 (direct contact with prospective client) which states:

- (a) Solicitation. Except as provided in subdivision (b) of this rule, a lawyer may not:
 - (1) solicit, or permit employees or agents of the lawyer to solicit on the lawyer's behalf, professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, in person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone, telegraph, or facsimile, or by other communication direct to a specific recipient and includes any written form of communication, including any electronic mail communication, directed to a specific recipient and not meeting the requirements of subdivision (b) of this rule and rules 4-7.11 through 4-7.17 of these rules.

Only days after her son suffered traumatic brain injury as the result of a motor vehicle injury, Peggy Jones was approached at JMH Ryder Trauma Center by Arturo Dopazo, III who successfully solicited her to become a client of his. Peggy Jones was unequivocal in her assertion that there was no prior relationship with Mr. Dopazo and that his legal services were not sought by her or anyone acting on her behalf. While there were some discrepancies in statements/depositions of Ms. Jones undersigned considers them to be insignificant and excusable in light of the amount of time that has passed herein and the emotional suffering of Ms. Jones.

III. SANCTIONS:

Respondent presented live testimony from two character witnesses,

Michael Feiler, Esq. and Dan Dolan, Esq., each well respected members of the legal community and each well known professionally to undersigned for a long period of time. Each described long term professional and social relationships with Respondent. Each expressed impressive reviews of Mr. Dopazo's professional capabilities as well as glowing descriptions of his activities and family life outside of the professional arena. These sincere assessments from persons well known to and respected by undersigned are influential in causing undersigned to temper any sanctions to be imposed herein.

Counsel for the Florida Bar suggests that a 2 year suspension is appropriate in light of the prior consent judgement against Mr. Dopazo for somewhat related type activity and in light of the new violation involving the solicitation of Ms. Jones at a time when she was most vulnerable.

Counsel for Mr. Dopazo suggests no suspension but instead imposition of a range from admonishment to public reprimand. While undersigned is disturbed by the solicitation of Ms. Jones at the JMH Ryder Trauma Center just days after her comatose child suffered a severe traumatic brain injury undersigned cannot help but to recognize that the solicitation occurred in March 2007 and the 1st notice from the Florida Bar that they were prosecuting/pursuing same came in April 2012 a full five years thereafter, placing Mr. Dopazo in a somewhat difficult position of remembering or recreating events that occurred five years earlier, after office personnel may no longer have been available and after the file relating to the Jones matter may have been destroyed. Undersigned did, however, find the testimony of Ms. Jones to be credible, that she personally did not contact the office of Mr.

Dopazo or in any way seek their assistance nor did she ask any friend, relative or 3rd party to contact Mr. Dopazo on her behalf. Mr. Dopazo's appearance at the hospital was completely unexpected and while she did apparently retain his services at that time her limited education and fragile emotional condition at the time probably rendered her unable to make a rational decision re: retaining counsel or to reject Mr. Dopazo's efforts to sign her up. Mr. Dopazo has failed to provide a satisfactory explanation as to his presence at the hospital. The allegation that his office called him and told him to go see Ms. Jones isn't enough.

It is also true, however, that Mr. Dopazo made all reasonable efforts to seek an appropriate recovery for Ms. Jones and her son, but unfortunately there was very limited insurance coverage available and review by subsequent counsel with whom Ms. Jones consulted confirmed that nothing further could be done.

After prolonged and thorough consideration undersigned referee might agree with Respondent's counsel's assessment of an appropriate sanction herein, however, the previous Unconditional Guilty Plea and Consent Judgment for Discipline dated August 24, 2004 relating to violation of the same Rule Regulating The Florida Bar 4-7.18 precludes same. On the other hand Florida Bar's counsel's recommendation is excessive especially in light of the long delayed prosecution herein.

Mr. Dopazo shall be suspended from the practice of law for a period of 60 days and shall pay costs, the exact amount to be determined. Since the Florida Bar was only partially successful in proving the charges herein by clear and convincing evidence there must be an apportioning of the total costs.

Hopefully, the parties can agree to an appropriate amount, but if unable to do

so within 20 days, undersigned shall schedule a hearing on said issue and jurisdiction is reserved to determine same at that time.

Dated this 7th day of July 2016.

A handwritten signature in black ink, appearing to read "Bernard S. Shapiro", is written over a horizontal line.

Judge Bernard S. Shapiro, Referee
175 N.W. 1st Avenue
Suite 1120
Miami, Florida 33128

Cc:
Patrick Russell, Bar Counsel
Andrew Berman, Respondent's Counsel
Adria Quintela, Staff Counsel

FEDERAL BUREAU OF INVESTIGATION

Date of transcription: 10/21/2009

PENNY LEE JONES, (previously interviewed), date of birth [REDACTED], social security number 261-51-7947, home address 3930 NW 181st Street, Miami Gardens, Florida, cell phone number 786-362-9240; was interviewed at her residence. After being advised of the identities of the interviewing agents and of the nature of the interview, JONES provided the following information:

Within the same week her son was in an accident, mostly likely within just a couple days, JONES was approached at the hospital by a man who said he represented attorney ARTURO DOPAZO. He came to the intensive care unit where JONES was with her son. He asked if he could represent her regarding the accident, and left a business card. Just a few days later, he visited her again in the intensive care unit and gave her papers to sign for representation. JONES signed the papers because she was distraught regarding her son's accident and just wanted the man to go away. The man came again to see her son after her son was out of the intensive care unit. He asked JONES to take pictures of her son and e-mail them to his phone. He said he wasn't allowed to take the pictures himself. JONES complied.

JONES then received a letter from DOPAZO's law firm dated April 5, 2007, documenting the fact he was representing her. LILIAN (LILLY) ARENCIBIA called JONES about two weeks after she received the letter stating that she worked for DOPAZO. ARENCIBIA asked JONES if she received any letters from the insurance company and told her not to speak to them.

Sometime in June JONES called ARENCIBIA to see what was going on with her case. ARENCIBIA said she had a check from the insurance company for \$10,000 but had to wait to send Medicaid a check for \$4,000. Medicaid had to get paid first, then JONES could receive her money. Later in June, JONES took the bus to DOPAZO's law office at ARENCIBIA's request. ARENCIBIA showed her the check from the insurance company for \$10,000. JONES signed the release papers to pay Medicaid. ARENCIBIA then wrote JONES a check for \$2,000 and drove her to the bank to cash it. JONES thinks it was a personal check from DOPAZO as his name was written on it. On the way to the bank, ARENCIBIA stopped at her house. JONES went inside and waited for 20-30 minutes while

Investigation on 10/21/2009 at Miami, Florida

File # 209A-MM-110409-AA70 - 64

Disc dictated

by SA SCOTT A. HOUSER:shf

SA CATHERINE H. NAWORTH:cb

Continuation of FD-302 of PENNY LEE JONES, on 10/21/2009, Page 2

ARENCEBIA was off doing something. JONES met ARENCIBIA's boyfriend and son. The house was in the Kendall area. ARENCIBIA then took JONES to a bank in Kendall. The bank did not have a common name and was located on SW 80th Street, about 5 minutes from a Metro Rail. JONES signed the check then walked to the teller with ARENCIBIA to cash it. JONES kept the cash. ARENCIBIA told JONES she would try to get her \$10,000 in addition to the money she just received. ARENCIBIA then dropped JONES off at the Metro Rail.

About two months later, ARENCIBIA called JONES again, said she had some money for her, and to come into the office. JONES went to DOPAZO's office and ARENCIBIA gave her a check for \$1,100. The check again had DOPAZO's name on it and appeared to be a personal check. ARENCIBIA told JONES it was too late to cash the check at a bank so JONES cashed it at a liquor store and took the bus home. JONES had neither a checking nor savings account back then.

JONES never met ARTURO DOPAZO during the entire representation. JONES called his office about 2-3 months later and asked to speak to ARENCIBIA and was told she no longer worked there. JONES contacted another attorney sometime later named JOSEPH CINNEY who told her there was nothing he could do about the settlement she received through DOPAZO's office.

JONES provided interviewing agents with copies of a police case report contact card, business card for CINNEY, letters from UNITED AUTOMOBILE INSURANCE COMPANY related to the settlement and release of claims, copy of the check from the insurance company, and a letter dated April 5, 2007, from DOPAZO's firm.

Copies of the documents provided by JONES are attached.

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/31/2010

PENNY JONES, previously interviewed, was interviewed at the United States Attorneys Office (USAO) in Miami. Also present was Assistant United States Attorney (AUSA) Christopher Clark. After being advised of the identities of the interviewers and the nature of the interview, JONES provided the following information:

The man who approached JONES in the lobby of the hospital after her son DANIEL JONES (DANIEL) was hit by a car introduced himself as a legal assistant from ARTURO DAPAZO'S law office. The man was described as white and had dark blonde hair. The man asked to see DANIEL, and JONES permitted him. JONES believed the man already knew about DANIEL'S accident. The man had JONES sign documents and never mentioned how much money she would receive.

JONES provided SA Nicholson with a copy of DVD titled "Crossing into Danger" that was shown on Channel 7 news. The DVD features her son DANIEL.

The DVD and receipt of property will be maintained in the 1-A exhibit section of the case file.

HDA
Investigation on 10/26/2010 at Miami, Florida

File # ~~2010-123~~ 123 Date dictated 10/31/2010

by SA Catharina Nicholson

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION
4 CASE NOS. 09-20623/10-20124-CRIMINAL-LENARD

4 UNITED STATES OF AMERICA, Miami, Florida
5 Plaintiff, February 10, 2011
6 vs. 2:41 p.m. to 4:02 p.m.
7 MARIA VICTORIA SUAREZ,
8 Defendant. Pages 1 to 36

9
10 SENTENCING HEARING
11 BEFORE THE HONORABLE JOAN A. LENARD,
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14
15 FOR THE GOVERNMENT: CHRISTOPHER CLARK, ESQ.
16 ASSISTANT UNITED STATES ATTORNEY
17 99 Northeast Fourth Street
Miami, Florida 33132

18 FOR THE DEFENDANT: JOAQUIN MENDEZ, JR., ESQ.
19 100 Southeast Second Street
20 Suite 2700
Miami, Florida 33131

21 FOR US PROBATION: RIC GARCIA

22 REPORTED BY: LISA EDWARDS, CRR, RMR
23 Official Court Reporter
24 400 North Miami Avenue
Twelfth Floor
25 Miami, Florida 33128
(305) 523-5499

1 one moment in my life I would be involved in such a difficult
2 situation.

3 Your Honor, I have fought very hard to raise my
4 children the right way, to give them a good education, to be
5 respectful of the elderly, to be respectful of authority.

6 I am so sorry. I never thought I would be in this,
7 all this, because I was obedient and because I wanted to follow
8 orders, orders from my husband.

9 I am so sorry.

10 MR. MENDEZ: That's all we have, your Honor.

11 THE COURT: What does the Government say?

12 MR. CLARK: Your Honor, I don't know your view on who
13 the most culpable participants are of this scheme to steal
14 patient information from JMH and then sell it for various
15 nefarious purposes such as giving information to the PI lawyers
16 who then would solicit these clients for their own benefit or
17 for the clinic owners who would solicit these patients who were
18 provided by Becky Garcia to participate in rehab at the clinics
19 to the extent that insurance would pay them.

20 Ms. Garcia certainly was involved in heinous conduct
21 in accessing confidential patient information she only had
22 access to through her employment as an ultrasound technician at
23 Jackson Hospital. That was a distinctive breach, your Honor,
24 and I think Jackson Memorial Hospital is dealing with that
25 breach and has had to answer to the 3,300 or so patients who

1 had their files accessed with no legitimate purpose.

2 The human face to the victims in this situation I had
3 the occasion to encounter. And I cite the young man who was
4 referred to in Paragraph 9 of the PSI, Daniel Jones. He was
5 one of the patients whose information was accessed by
6 Ms. Garcia that gave rise to all of the substantive counts of
7 the indictment.

8 Daniel Jones was a young boy from Liberty City who was
9 playing basketball at a local playground and happened to be
10 walking across a busy intersection during rush hour and
11 negligently crossed against traffic. He was struck by a woman
12 who was driving her car along one of the streets.

13 Mr. Jones, young Jones, Master Jones was taken to
14 Jackson Memorial Hospital by the ambulance. He suffered severe
15 brain damage. He lost functioning permanently on the left side
16 of his body. He lost teeth that have never been replaced.
17 He's brain injured. He's a very pleasant boy.

18 His mother loves him. His mother tried to educate
19 him. His mother is God-fearing. She respects the process.

20 Daniel Jones' information was given to one of these
21 attorneys who were in cahoots with Ruben Rodriguez, of which
22 this information never would have been conveyed but for the
23 recruitment of her by this Defendant.

24 The end result was one of these representatives went
25 to the hospital shortly after the accident, approached Daniel

1 Jones's mother; put a paper in front of her saying, "We're an
2 attorney. We were referred to represent you." The mother is
3 not very sophisticated. She's uneducated. She's bereaved by
4 the injury to her son. And she agreed to sign a retainer with
5 this attorney through the representative.

6 In very short order, paperwork was presented to her
7 without an appropriate explanation; and she signed off to the
8 limits of the personal injury protection that the driver of the
9 car had and she was the recipient of some \$10,000 to compensate
10 her for the medical injuries that were suffered by her son.

11 Of course, the attorneys took a few thousand dollars
12 off that for their retainer fee and they deducted the expenses.
13 So the end result was she got a few thousand dollars for this
14 accident.

15 She also wrote off a release so that she could not
16 seek any further claims against the driver of the car of the
17 insured -- on the insurer.

18 On speaking to her in preparation for trial before
19 Ms. Suarez agreed to plead guilty in this case, we asked about
20 the condition of her son. And she was very much grappling with
21 how it is she can pay for therapy, how can she get dentures for
22 her son, how can she at all treat and take care of her son who
23 suffered these permanent injuries. And basically, she cannot.
24 She's in no position to care for this son.

25 Now, whether or not that lady ever could have

1 collected on behalf of her son remains to be seen. But we'll
2 never know it because the attorneys who were in league with
3 Mr. Rodriguez and with Mrs. Suarez never gave her the chance
4 and never discussed these matters with her, never allowed that
5 woman to making a knowing relinquishment of her rights.

6 THE COURT: What's happened to the attorney?

7 MR. CLARK: That, your Honor, is a matter for the Bar.
8 That's a matter for further investigation by my office. But to
9 this day, nothing has happened to the attorneys.

10 So that is one human face, your Honor. I'm sure there
11 is untold others who were the victims in this case.

12 And I return to the example of Rebecca Garcia. She's
13 the one who started this. But without the likes of Ruben
14 Rodriguez and this Defendant, the information never would have
15 been disseminated. There would have been no deleterious impact
16 to those victims of the patient theft at Jackson Memorial
17 Hospital.

18 And if --

19 THE COURT: How is it that Rebecca Garcia got ten
20 months in jail?

21 MR. CLARK: She pled to a count; and I believe that
22 was the guidelines sentence for the particular count she pled
23 to.

24 And if Mrs. Garcia received ten months as a result of
25 her conduct, I don't see why this Defendant should receive any