

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 07-21256-CIV-JORDAN

JOHN B. THOMPSON,

Plaintiff,

vs.

THE FLORIDA BAR and
DAVA J. TUNIS,

Defendants.

**THE FLORIDA BAR'S RESPONSE TO PLAINTIFF'S MOTION TO STRIKE
FILING OF DISCIPLINARY HISTORY**

Defendant, The Florida Bar ("the Bar"), responds in opposition to Plaintiff's *Motion to Strike* the filing of his disciplinary history, and states as follows:

This Court ordered The Florida Bar to file a copy of Mr. Thompson's disciplinary history during hearing on August, 23, 2007. The Florida Bar filed Mr. Thompson's disciplinary history August 31, 2007. The record accurately reflects a 1992 public reprimand as the only discipline the Florida Supreme Court has imposed upon Mr. Thompson. However, Mr. Thompson alleges that the disciplinary history, as filed, is "grossly incomplete, deceptive, and hurtful" because it does not include "acquittals" and "exonerations."

GREENBERG TRAUIG, P.A.

After reinvestigating the Bar's records the undersigned located one additional matter to disclose to the Court. The additional matter is a closed inquiry¹ opened by the Bar in response to a complaint filed by Dennis McCauley. The Bar investigated and ultimately closed the McCauley complaint on September 11, 2006. *See Exhibit A*, attached hereto. Because closed inquiries do not result in discipline, they are not necessarily disclosed pursuant to a request for an attorney's disciplinary history. The omission of the closed inquiry was not an attempt to deceive the Court or to misrepresent Mr. Thompson's disciplinary history with The Florida Bar.

The Florida Bar does not dispute the assertions made by Mr. Thompson regarding additional inquiries which were investigated by the Bar and closed before 2006. But, The Florida Bar does not maintain a record of closed inquiries beyond one year.² To be clear, neither a request for disciplinary history nor a request for disciplinary records would result in the disclosure of inquiries which have been closed for more than one year.

As a judicial branch entity, The Florida Bar complies with the Judicial Branch's Records Retention Schedule for Administrative Records. *See Exhibit B*, attached hereto. The retention period for Complaint Files, which includes files closed with no discipline imposed, is one year. *See Rule 2.075, Florida Rules of Judicial Administration [Complaints: Citizens/Consumers/Employees]; Report of the Supreme Court Workgroup on Public Records, 825 So.2d 889, 907 (Fla. 2002)(adopting recommended rule changes*

¹ Generally, a closed inquiry results where a third-party files a complaint with The Florida Bar against an attorney; the Bar opens a file and investigates the complaint, but does not find an ethical violation or sufficient cause to pursue disciplinary proceedings; and, the complaint file is closed.

² Please note that The Florida Bar closes approximately 7,000 investigations *without discipline* annually.

and authorizing destruction of complaints filed by citizens, consumers and employees after period of one year).

The Florida Bar has no objection to a supplemental filing by Mr. Thompson, should he choose to submit his own documentation regarding closed inquiries. However, it is the Bar's position that closed inquiries are not evidence of bad faith by the Bar.

First, the disciplinary proceeding currently pending against Mr. Thompson was initiated based on complaints the Bar received from the following third-parties: Judge James Moore, Judge Ronald Friedman, James T. Smith and Rebecca D. Ward. *See Exhibits A and B of Defendant Tunis' Notice of Filing Complaints in Florida Bar Cases Pending Against Plaintiff.* Second, according to Mr. Thompson, the inquiries opened before 2006 and investigated by The Florida Bar were also initiated based on complaints the Bar received from third-parties. *See Plaintiff's Motion to Strike Bar's Filing*, ¶¶ 5-9 (referencing Bar investigations based on complaints filed by Tew Cardenas, Norm Kent, The Ohio Bar, a video gamer and Dennis McCauley). Finally, the Bar has no control over the circumstances which have caused multiple third-parties to file complaints against Mr. Thompson. The Bar, in good faith, has only opened, investigated, and where appropriate, closed those complaints.

s/ Karusha Y. Sharpe
BARRY RICHARD
FLORIDA BAR NUMBER 0105599
KARUSHA Y. SHARPE
FLORIDA BAR NUMBER 0540161
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FACSIMILE (850) 681-0207

GREENBERG TRAUIG, P.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 6, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to the following:

John B. Thompson, Esq.
1172 South Dixie Hwy., Suite 111
Coral Gables, Florida 33146

Charles M. Fahlbusch, Esq.
Senior Assistant Attorney General
OFFICE OF THE ATTORNEY
GENERAL
Civil Litigation Division
110 S.E. 6th Street, 10th Floor
Fort Lauderdale, FL 33301

s/ Karusha Y. Sharpe
KARUSHA Y. SHARPE
FLORIDA BAR NUMBER 0540161

TAL 451431059v1 9/6/2007



THE FLORIDA BAR

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ORLANDO, FL 32804-6314

LAWYER REGULATION DEPARTMENT 407/425-5424
UPL DEPARTMENT 407/425-0473
WWW.FLABAR.ORG

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

September 11, 2006

Dennis McCauley
GamePolitics.com, LLC
P.O. Box 161
Chalfont, PA 18914

**RE: Complaint Against John Bruce Thompson
Case No. 2006-71,167(11F)**

Dear Mr. McCauley:

This is to advise you that on the basis of a diligent and impartial analysis of all the information available as of this date, The Florida Bar has found no present basis for further inquiry.

Therefore, this case is now closed.

Since the bar only has the authority to address questions of ethics, the bar could not address any legal issue about which you may feel concerned. If you have further concerns about any legal issues, please consult with legal counsel of your choice.

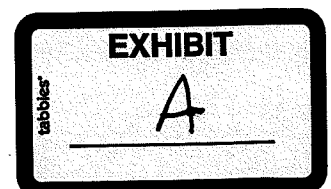
This complaint will be purged from the discipline records and the file destroyed one year from the date of this letter.

Sincerely,

Sheila Marie Tuma
Bar Counsel

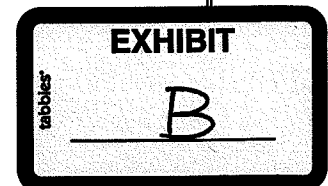
SMT/vbs

cc: John Bruce Thompson
1172 S. Dixie Highway, Suite 111
Coral Gables, FL 33146-2918



Record Retention Schedule

LAWYER REGULATION	
TYPE OF FILE	RETENTION PERIOD
Affidavits	current year + 1 year (leave backup for convenience)
AS400 Monthly Purge List	30 days from the date the list is generated
BOG Discipline Agendas	Current + 1 year
BOG Discipline Minutes*	permanent
Branch Lease Information	duration of lease + 2 years
Budget Information	3 fiscal years
Budget Reports ("green bar" forms)	current year
Circuit Committee Correspondence	current year + 1 year
Conditional Admissions*	permanent
Court Orders*	permanent
Discipline Check Letters	current year + 1 year
Discipline Files - Closed*	permanent
Disciplinary Procedures Committee	current + 1 year
Complaint Files - Closed (no discipline imposed)*	1 year from date of closure
Employment Reports	upon reinstatement, contents consolidated with the reinstatement file
Fee Arbitration Closed Files	1 year from date of closure
Fee Division	current year + 1 year
Grievance Committee (misc. correspondence)	current year + 1 year
Grievance Committee Oath Forms	duration of term + 1 year
Inventory Attorneys*	permanent
Job Orders	current fiscal year + 1 fiscal year
Open Disciplinary Files*	N/A
Personnel Information	duration of employment
Public Records Requests	current year + 1 year
Reader Files	current year + 1 year
Rule Amendments*	permanent



Standing Committee Minutes*	permanent
Standing Committee Agendas	3 years
Standing/Circuit Committee Correspondence	current year + 1 year
Statistics*	permanent
Subpoenas	current year + 1 year
Suit Files*	permanent
Timesheets	current fiscal year + 1 fiscal year
UAF	current year + 1 year
Vouchers and Expense Reports	current fiscal year + 1 fiscal year

* These types of files will be scanned into our imaging system.

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