

[For immediate release]

**FACDL PRESIDENT BRIAN TANNEBAUM
PRESSURES FLORIDA BAR TO HALT PROBE
INTO COMPLAINT AGAINST MILT HIRSCH**

**Sends intimidating e-mail messages to grievance
committee chair that he wants to keep secret.**

October 18, 2010 (Miami, FL) - Last week, **Sean Casey**, who is serving a prison sentence in Florida, received an envelope in his jail cell from an anonymous source. The envelope contained copies of e-mail messages from Miami attorney and president of the Florida Association of Criminal Defense Lawyers (FACDL), **Brian L. Tannebaum**. The messages appear to pressure The Florida Bar to stop the investigation into a complaint filed by Casey against his former defense counsel, **Milton "Milt" Hirsch**.

Hirsch ran unopposed for a seat on the bench at the Eleventh Judicial Circuit Court in Miami. His term begins in January 2011. Tannebaum has been representing Hirsch in Bar proceedings on this complaint that began in February.

The Bar complaint alleges Hirsch violated the Rules of Professional Conduct of The Florida Bar while representing Casey. It claims Hirsch advised Casey to flee the country to avoid criminal prosecution and later committed perjury in court when he denied the allegations. In Florida, it is a crime for a defendant to fail to appear in court while released on bond, and to solicit, encourage, or counsel a person to commit this offense is illegal.

This case caught the media's attention in August 2009 when Miami Circuit Judge **John W. Thornton, Jr.** sealed tape recordings of Hirsch and a psychotherapist recommended by Hirsch to assist in Casey's criminal case, **Dr. Michael E. Rappaport**. Casey alleged that based on his recollection of the conversations, the recordings would provide evidence that Hirsch and Rappaport advised him to disappear instead of going to trial. Thornton's decision to seal the tape recordings is being reviewed by the Third District Court of Appeal of Florida in a separate petition filed by **Bruce B. Brugmann**, founder, editor and publisher of the San Francisco Bay Guardian in California asking for access to these recordings in the court file.

On April 29, 2010, staff attorney at The Florida Bar headquarters, **William Wilhelm**, sent a letter to Casey informing, "The tape could be helpful if it were not sealed." Wilhelm concluded that without this evidence "the burden of proof could not be carried." The complaint was closed without any action.

However, after further review, Wilhelm's supervisor, **Arne Vanstrum**, informed Tannebaum in a letter dated August 4, 2010, that the Chair of The Florida Bar Grievance Committee "11B" in Miami, attorney **Jeff P. H. Cazeau**, decided that the case file would be "re-opened for further investigation."

This decision apparently infuriated Tannebaum, who has taken great strides to keep the Bar from investigating this complaint. Court records show that Tannebaum may have violated a court order in filing a response to the complaint on Hirsch's behalf that included documents that were required to remain confidential. A motion has been filed asking Judge Thornton to hold criminal contempt proceedings against Tannebaum.

On August 9, 2010, Tannebaum sent a series of e-mail messages to Cazeau imploring that he put a stop to the investigation. In one message, Tannebaum seems to intimidate Cazeau by referring to Hirsch as "Judge elect."

Tannebaum writes, "That my client has to spend his last few months as a practicing lawyer with his name and reputation before a Grievance Committee is of great disappointment to me, and to him."

This is a poor reason to stop an investigation into serious attorney misconduct. If Hirsch did provide his client the illegal advice to flee the country, he should have thought about his "name and reputation" before giving Casey this advice.

Cazeau explained to Tannebaum in a reply message, "After reviewing the file, I determined that it should be reviewed by the full committee."

He also indicated that the file would be assigned to the grievance committee's investigating member, **Abby Vicencio**, a financial advisor at Wells Fargo. It is unknown whether Tannebaum also tried to influence this committee member. Based on Tannebaum's behavior, it would not be surprising if he also tried to pressure Vicencio to close the file. The Florida Bar should investigate.

Not only does Tannebaum not want The Florida Bar to investigate, which could uncover Hirsch's alleged wrongdoing, but he also does not want Casey, or anyone else, to have any knowledge of this e-mail communication with the grievance committee chair.

Cazeau ended his reply message by informing Tannebaum, "I've also copied Ms. **Daniela Rosette** and **Margaret Rubiera** with the Florida Bar and ask them to forward your email and my response to the Complainant."

Apparently nervous that his improper conduct would be made known to Casey, Tannebaum pleaded in a follow-up e-mail message, "I see no need to copy him on my e-mail to you and I specifically request you not."

Although Bar staff may communicate with a subject of a complaint, it is inappropriate for the subject of a complaint, or his counsel, to attempt to influence committee members. According to Florida law, all communication from the parties that has been reviewed as part of Bar proceedings must be included in the case file and available for public disclosure.

In response to Tannebaum's request to keep the e-mail correspondence a secret, Cazeau wrote, "With regard to forwarding your email to Complainant, my understanding is that any communication between the Respondent and the Florida Bar regarding this matter must be shared with the Complainant."

Rosette, a staff attorney at The Florida Bar Miami Branch Office, against Cazeau's instructions, responded to Tannebaum in a separate e-mail, "Thank you, Brian. We will not be providing the complainant with any of the e-mails."

Rosette and Tannebaum know each other well. Tannebaum previously served as a member of a grievance committee in Miami and his firm, Tannebaum Weiss, specializes in grievance defenses for attorneys confronting discipline.

Shortly after Tannebaum's e-mails, Rosette sent Casey a letter explaining that no investigation will be conducted into the complaint. Apparently, The Florida Bar succumbed to Hirsch's influence.

This abrupt change in course raises suspicions that there may be a cover up of the alleged violations committed by Hirsch by either The Bar staff attorney or one of the committee members in Miami. This is the general sentiment of many individuals following this case. The secret e-mails sent by Tannebaum heighten these suspicions.

"If Hirsch had nothing to hide, he would not be afraid of an investigation into the complaint," Casey remarked upon finding out about the secret e-mail messages.

Rosette went on to explain that the complaint lacked "clear and convincing evidence." However, without investigating the matter, as the committee chair initially instructed, it is impossible to know whether or not there is clear and convincing evidence.

The complaint included several witnesses, including Casey's mother who heard Hirsch's illegal advise first-hand and several prominent attorneys in Miami, all in good standing in The Florida Bar, that examined the case file and who are ready to testify in support of the allegations at a disciplinary hearing. This testimonial evidence should carry the required burden of proof.

It is rather unsettling that Casey's complaint against Hirsch was even sent to a Bar grievance committee in Hirsch's own backyard in the first place. The Bar could have sent the complaint for review in any one of the 20 judicial circuits of Florida to avoid a potential bias by grievance committee members.

In an article in the Miami New Times by reporter **Francisco Alvarado**, *The Fugitive*, Casey is quoted as saying, "Milton Hirsch has a lot of influence ... I am going up against the establishment."

Casey may be right. The actions taken by Tannebaum and his colleagues at The Florida Bar, behind closed doors and out of the view of Casey and the public, smells like a cover up on a scale Miami knows all too well.

In Tannebaum's e-mail messages, he is on a first-name basis with the grievance committee chair and describes his messages as only "some personal thoughts." Tannebaum further tries to justify his secret communication with Cazeau by writing "I was reaching out to you as a fellow lawyer."

This shows Tannebaum's personal connection with Bar staff and committee members, which puts Casey at a tremendous disadvantage in seeking an unbiased review of his complaint. It is possible that there are many more secret e-mails that have been circulated between Tannebaum and the other grievance committee members to try to keep the complaint from being investigated. The integrity of the Bar's disciplinary grievance process for Florida lawyers will be questioned if The Florida Bar fails to look into this matter.

In addition, many members of The Florida Bar Board of Governors and grievance committee in Miami have their own conflicts of interest that prevent a fair and impartial review of the complaint. These members include: **Roland Sanchez-Medina**, who was Hirsch's treasurer in the "Elect Milton Hirsch Campaign" for circuit court judge; **Ramon A. Abadin**, **Ervin A. Gonzalez**, and **Dennis G. Kainen**, who all made financial contributions to his campaign; and **Dori Foster-Morales**, who hosted a fundraiser for his campaign at her law firm. Also, the designated reviewer of the Miami grievance committee, **Michael J. Higer**, was a member of Hirsch's campaign committee, contributed money to his campaign, and hosted a fundraiser for Hirsch at his law firm.

Furthermore, attorney members of the Miami grievance committee, **Diane W. Katzen**, **Jennifer G. Altman**, **Augusto R. Lopez**, and **Jason M. Murray**, are all practicing lawyers in the Eleventh Judicial Circuit and very well may have cases before Hirsch when he assumes his role as judge in January. It is hard to imagine how an attorney in their right mind would now come to recommend sanctions against an attorney who within months could be ruling on their cases. There is no greater conflict of interest than this that warrants a change of venue for review of this complaint.

The Florida Bar must stay true to its mandate and investigate all complaints equally without prejudice, bias, or conflicts of interest.

In a similar case in Massachusetts, **Luis Estrada** accused his attorney, **Richard Ivker**, of advising him to flee the country to avoid criminal prosecution. As in this case, it was the attorney's word against his client's word. However, the Board of Bar Overseers of the Massachusetts Bar Association opened the case file, investigated the complaint, interviewed witnesses, and proceeded with disciplinary action. The Massachusetts Superior Judicial Court, weighing the testimonial evidence, credited Estrada's version of events against Ivker's denial of the allegations and imposed sanctions against the lawyer.

It is unlikely that Estrada's witnesses included highly respected attorneys as provided in Casey's complaint, which makes his case for lawyer sanctions that much stronger.

The Florida Bar should forward the complaint to a grievance committee outside of Miami. This would eliminate any potential conflicts of interest and promote fair review of these serious allegations. If Hirsch did advise Casey to flee to avoid criminal prosecution, he does not deserve the public's trust to hold public office.

A fair resolution would be for The Florida Bar to send the complaint for review by a grievance committee outside the Eleventh Circuit, preferably in North Florida, far removed from Hirsch's sphere of influence in South Florida, and investigate this matter by considering the available testimonial evidence in support of Casey's allegations, which meets the required burden of proof to proceed forward with disciplinary sanctions. This would ensure that The Florida Bar has made every effort to guarantee a fair and impartial review of this complaint.

If review of this complaint is not conducted outside of Miami, the public is left wondering whether the Miami "establishment" has protected one of its own once again.

For more information, or to download a copy of the Bar complaint against Hirsch, please visit www.freeseancasey.org.

[Source: *The Free Sean Casey Campaign*]