

**SUPREME COURT OF MISSISSIPPI**

**COPY**

**FILED**

**THE MISSISSIPPI BAR**

**APR 01 2008**

**COMPLAINANT**

**v.**

**OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS**

**CAUSE NO. 2008-BD-00451**

**RICHARD F. "DICKIE" SCRUGGS**

**RESPONDENT**

**THE MISSISSIPPI BAR'S RESPONSE TO  
RESPONDENT'S MOTION TO DISMISS FORMAL COMPLAINT**

The Mississippi Bar ("the Bar") files the following response to Richard F. "Dickie" Scruggs ("Mr. Scruggs") Motion to Dismiss Formal Complaint.

1. Mr. Scruggs tendered a guilty plea on March 14, 2008, in the United States District Court for the Northern District of Mississippi to one count of conspiracy to corruptly influence a state circuit court judge in violation of Title 18 U.S.C. § 371.

2. The Bar filed a Formal Complaint pursuant to Rule 6, Rules of Discipline for the Mississippi Bar ("MRD") on March 18, 2008, requesting that Mr. Scruggs be disbarred. Attached to that Formal Complaint is a certified copy of Mr. Scruggs' guilty plea which was filed with the federal court clerk.

3. On or about March 28, 2008, Michael B. Martz ("Mr. Martz") and Charles Mikhail ("Mr. Mikhail") filed a waiver of process on behalf of Mr. Scruggs and entered an appearance as his legal counsel for purposes of this Bar disciplinary matter.

**MOTION# 2008-871**

4. Also on March 28, 2008, Mr. Martz filed a Motion to Dismiss Formal Complaint on the basis that the Formal Complaint is fatally flawed because Mr. Scruggs' guilty plea has not been accepted by the federal court and no final judgment has yet been entered.

5. It is the Bar's position that Mr. Martz' reading of Rule 6, MRD, is rather strained. A plain reading of Rule 6(a), MRD, contemplates that a Rule 6 Formal Complaint is triggered upon the entry of a guilty plea. While Mr. Scruggs' guilty plea may not as of yet resulted in entry of a final judgment by the federal district court, the Formal Complaint is not fatally flawed. As this Court recognized in *The Mississippi Bar v. J. Keith Shelton*, 890 So. 2d 827 (Miss. 2003), on the basis of his guilty plea to a felony, Mr. Scruggs has "demonstrated evidence of unprofessional and unethical conduct evincing unfitness for the practice of law which warrants immediate suspension." *Id.* at 830.

6. More recently, in *The Mississippi Bar v. Balducci*, 2007-BD-02241-SCT (Miss. 2008), recognized that in his tender of a guilty plea to a felony charge, Mr. Balducci "agreed to plead guilty under oath and that his agreement was knowing, free and voluntary and not the product of force, threat, or coercion. The defendant is pleading guilty because defendant is in fact guilty of the charges." *Id.* ¶ 5. *See also The Mississippi Bar v. Langston*, 2008-BD-00106-SCT (Miss. 2008). Mr. Scruggs' guilty plea likewise states that his plea is knowing, free, and voluntary and that he pled guilty because he is, in fact, guilty of the charges.

7. If it is premature for this Court to disbar Mr. Scruggs based alone upon his entry of a guilty plea, then the Court should immediately suspend him from the practice law until such time as a final judgment in his criminal matter is entered. When the conviction and judgment become final,

the Bar will file the appropriate motion at that time to permanently disbar Mr. Scruggs. Pursuant to this Court's exclusive and inherent jurisdiction over matters of attorney discipline, it may immediately and indefinitely suspend Mr. Scruggs pending final conclusion of the criminal proceedings in which he tendered his agreement to plead guilty. *See, e.g., The Mississippi Bar v. Shelton*, 855 So. 2d 444 (Miss. 2003); *The Mississippi Bar v. McGuire*, 647 So. 2d 706 (Miss. 1994). However, out of an abundance of caution, the Bar has this day, in a separate filing, submitted a Motion for Indefinite Suspension for this Court's consideration.

8. Mr. Scruggs should not be allowed to continue to practice law while awaiting entry of a final judgment, having already demonstrated unprofessional and unethical conduct evincing unfitness for the practice of law by virtue of having entered a guilty plea to a felony charge of conspiracy to corrupt a state circuit court judge.


WHEREFORE, the Mississippi Bar requests this Honorable Court to deny Mr. Scruggs' Motion to Dismiss Formal Complaint and to immediately suspend Mr. Scruggs from the practice of law pending further order of the Court.

The Bar requests all other such relief that this Honorable Court deems just and proper.

Dated this 1<sup>st</sup> day of April 2008.

THE MISSISSIPPI BAR

By:

  
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**CERTIFICATE OF SERVICE**

I certify that I have this day caused a copy of the foregoing Response to Respondent's Motion to Dismiss Formal Complaint to be sent by first class mail, postage prepaid to Michael B. Martz and Charles J. Mikhail at the following addresses:

Michael B. Martz  
215 Louis Wilson Drive  
Brandon, MS 39042-3434

Charles J. Mikhail  
Post Office Box 8745  
Moss Point, MS 39562

Dated this 1<sup>st</sup> day of April 2008.

  
Adam B. Kilgore