

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA  
CIVIL DIVISION  
CASE NO. 00-2750CI-20

CHURCH OF SCIENTOLOGY FLAG  
SERVICE ORGANIZATION, INC.,

Plaintiff,

vs.

DELL LIEBREICH, individually and as  
Personal Representative of the Estate of  
Lisa McPherson,

Defendants.

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FILED  
CNIL COURT REC DEPT  
2003 JAN 10 PM 3:24  
Kathleen F. DeBaker  
Clerk Circuit/COUNTY Court

**ORDER**

**THIS CAUSE** coming on to be heard upon the Plaintiff's Motion to Disqualify Counsel and the court having heard testimony and received evidence regarding the same and having reviewed argument of counsel finds:

The Plaintiff's motion seeks the disqualification of Kennan G. Dandar, Esq., and the law firm of Dandar and Dandar, the Defendant's attorneys on the basis of allegations of misconduct. Those allegations fall within two broad categories. The first concerns the nature and propriety of the financial arrangements which Mr. Dandar had with Robert Minton regarding his financial support for the Defendants in this litigation. The second concerns allegations of perjury and the solicitation of perjury by Mr. Dandar during the lengthy discovery phase of this litigation. Each allegation of misconduct will be addressed separately, although they are all interrelated and the evidence regarding each is generally common to all.

*Theft of Client's Money*

Plaintiff has alleged that Mr. Dandar has stolen funds provided by Robert Minton, and intended for the support of the Defendant's defense in this litigation, and used them for his own purposes. The sole evidentiary basis for such a claim is the testimony of Robert Minton himself. The court does not find that testimony to be credible, and the Plaintiff has not sustained its burden of proving the allegation of theft. As to whether Mr. Dandar or his firm should be

removed from representation of the Defendant by virtue of actions regarding the use of these funds, the court notes that the client herself is not dissatisfied and desires that her counsel continue his representation. If the party whose funds were allegedly stolen desires that her counsel remain on the case, in spite of all the allegations and evidence produced during this proceeding, then the court will not interfere.

#### *Commingling of Funds*

These allegations concern some of the same funds referred to above. Although this court has indicated that it does not find the testimony of Robert Minton alone to be credible, the allegations of commingling are supported by the testimony of Kennan G. Dandar himself. During the course of this litigation, Robert Minton provided over a million dollars to Dandar in support of his representation of the Defendants. Some of those funds were deposited into the Dandar and Dandar client trust account, some were deposited into the Dandar and Dandar office operating account and some were deposited directly into personal accounts or investments of Kennan G. Dandar. Mr. Dandar has suggested that his actions were appropriate, and has provided a rather tortured account of the shifting nature of the financial arrangements he had with Minton regarding his various substantial contributions. This court does not find his account to be credible and further finds that there appear to have been serious violations of Rule 4-1.15 of the Florida Rules Of Professional Conduct. Again, Mr. Dandar's client is fully aware of his actions and has not voiced any objection. In light of that fact and the hardship to the client that disqualification would create, it is inappropriate to remove her counsel on the basis of these apparent ethical violations. However, the court will refer this matter to the Florida Bar Association for further investigation and appropriate disciplinary proceedings.

#### *Violations of Restrictions Imposed by The Florida Bar*

This allegation suggests that Mr. Dandar violated the Rules of Professional Conduct by allowing a person (Robert Minton) who had provided financial support for the litigation to interfere with his independent professional judgment or with the client-lawyer relationship. The court finds that there is insufficient credible evidence to sustain the Plaintiff's burden of proof regarding these allegations.

*Directing Minton Not to Produce Documents*

The sole evidentiary support for this allegation is the testimony of Robert Minton. That testimony is directly contradicted by the testimony of Kennan Dandar. Although this court is unable to determine the truthfulness of either witness, the burden of proof in this case is upon the Plaintiff as the moving party. The evidence and testimony regarding this issue has not sustained the Plaintiff's burden and must therefore fail. This finding should not be interpreted or construed as an endorsement of the credibility of Mr. Dandar. Obviously both he and Minton have considerable personal stake in the outcome of this matter. The court is frankly unable to reconcile their testimony and arrive at the truth. However the burden of proof is upon the Plaintiff and it has not been met.

*Soliciting Minton to Commit Perjury*

As previously noted above, this allegation is solely dependent upon the testimony of Robert Minton. Since the court has found that his testimony is not credible, indeed since he has admitted previous perjury on the record in this very action, it will not sustain the Plaintiff's burden of proof regarding this issue.

*Dandar's Misrepresentations to the Courts*

These allegations are based upon the previous ones and are dependent upon the credibility of the testimony of Robert Minton, or in some respects the testimony of Jesse Prince. Neither witness is credible and the court finds that the Plaintiff has failed to sustain its burden of proof regarding them. The court further finds that the conduct of Kennan Dandar during hearings before this court do not warrant disqualification.

**IT IS THEREFORE ORDERED** that the Plaintiff's Motion for Disqualification be and the same is hereby **DENIED**.

**DONE AND ORDERED** in Chambers at Clearwater, Pinellas County, Florida this  
10 day of January, 2003.

  
W. DOUGLAS BAIRD, CIRCUIT JUDGE

cc: F. Wallace Pope, Jr., Esq.  
Thomas Dandar, Esq.  
Kennan Dandar, Esq.  
Samuel D. Rosen, Esq.  
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Luke Lirot, Esq.  
Anthony S. Battaglia, Esq.