

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Supreme Court Case
No. SC06-1341

v.

ALEXIS SUMMER MOORE,

Respondent.

The Florida Bar File
No. 2003-71,466(11L)

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by Rule 3-7.6 of the Rules Regulating The Florida Bar, the following proceedings occurred:

On July 11, 2006, The Florida Bar filed its Complaint against Respondent in these proceedings. On July 26, 2006, The Florida Bar filed an Amended Request for Admissions. The matters were deemed admitted pursuant to this referee's October 5, 2006 order granting The Florida Bar's Motion for Order Deeming Matters Admitted. Furthermore, Respondent was found guilty of violating specific Rules Regulating The Florida Bar, referenced in this report of referee, by virtue of this referee's October 5, 2006 order granting The Florida Bar's Motion for Entry of Default Judgment, as well as the aforementioned order granting The Florida Bar's Motion for Order Deeming Matters Admitted.

On September 27, 2006, The Florida Bar served its First Set of Interrogatories and Request for Production of Documents on Respondent. As of November 17, 2006, Respondent had not filed responses to either the Interrogatories or Request for Production; accordingly, The Florida Bar filed a Motion to Compel. As a result of Respondent's failure to file responses to said discovery, this referee entered an order on November 20, 2006 precluding Respondent from presenting any witnesses or any documentary evidence at final hearing in this cause. It is noted that Respondent also failed to appear at a status conference on October 5, 2006.¹

On December 13, 2006, a final hearing was held in this matter. Respondent appeared at final hearing telephonically. At the hearing, Respondent represented that she would make restitution to Ugo Di Roma Salon & Day Spa in the amount of \$322.00 and pay The Florida Bar's costs in these proceedings in the amount of \$1450.00 (\$1250.00 administrative costs & \$200.00 court reporter fees) by January 1, 2007. Based on Respondent's representation, this referee entered an Interim Order on Issues of Discipline ("Interim Order") holding that if Respondent did not comply with the above by the designated date, this referee would recommend Respondent be suspended for a period of one year, plus restitution and costs.

¹ On the day of the status conference, someone called this referee's office on Respondent's behalf and advised Respondent would not be able to appear. The caller was informed that Respondent herself would need to contact this Referee's office, but Respondent did not do so prior to the status conference.

On January 3, 2007, a hearing was held to determine whether Respondent had complied with the Interim Order. Respondent did not appear at the hearing on final disposition, nor has she complied with the Interim Order entered by this referee on December 13, 2006.

All of the pleadings, responses thereto, notices, orders, and exhibits, along with this report, constitute the record in this case and are forwarded to the Supreme Court of Florida.

The following attorneys appeared as counsel for the parties:

On behalf of The Florida Bar: Arlene K. Sankel & Jennifer R. Falcone Moore

On behalf of the Respondent: *Pro se*

II. FINDINGS OF FACT:

A. Jurisdictional Statement:

The Respondent is and was at all times material herein, a member of The Florida Bar, albeit emergency suspended pursuant to Florida Supreme Court Order dated November 28, 2006, and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary of Case:

On or about September 19, 2002, Respondent incurred \$137.00 in hair coloring and manicure services at the Ugo Di Roma Salon & Day Spa in Coconut Grove,

Florida. Respondent paid her bill with a check drawn on her law office's operating account. In or about September, 2002, Respondent's check was presented twice for payment. Respondent's check was returned twice for insufficient funds.

Ugo Di Roma attempted to contact Respondent several times about the returned check. In November of 2002, Respondent called Ugo Di Roma Salon & Day Spa for an appointment and promised to pay her unpaid bill together with her new charges. Respondent received new services from Ugo Di Roma. When it came time to pay her bill, Respondent told the Salon's receptionist that she had forgotten her checkbook. Respondent informed the salon's receptionist that she would be back the next day to pay both bills which amounted to \$322.00. Respondent failed to pay her last service bill as promised.

On or about May 9, 2003, Ugo Castagna, the owner of Ugo Di Roma Salon & Day Spa, filed a grievance against Respondent regarding the above incidents. On or about July 20, 2003, Respondent responded to The Florida Bar's inquiry regarding Mr. Castagna's grievance. Respondent stated that she was dissatisfied with the hair coloring treatment provided to her at the salon and went back to get it redone, but the salon was unable to fix her hair color. Respondent stated she then called her bank and requested a stop payment on the check to the salon. However, Respondent's check was returned twice by the bank for insufficient funds and not because of a stop payment.

III. RECOMMENDATION AS TO GUILT:

Based on the foregoing, I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar: Rules 4-8.1 (Bar Admission & Disciplinary Matters) and 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules Regulating The Florida Bar.

IV. CASE LAW:

I considered the following case law prior to recommending discipline:

- *The Florida Bar v. Mayo*, 439 So.2d 888 (Fla. 1983);
- *The Florida Bar v. Kassier*, 730 So.2d 1273 (Fla. 1998); and
- *The Florida Bar v. Davis*, 361 So.2d 159 (Fla. 1978).

V. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE

APPLIED: I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that she be disciplined by:

A. One year suspension to be effective upon entry of the final order of discipline by the Supreme Court of Florida.

B. Payment of The Florida Bar's costs in these proceedings.

C. Respondent shall submit to an evaluation by Florida Lawyer's Assistance, Inc., (FLA) within thirty days of the Supreme Court's order in this case and shall comply with FLA's recommendations, if any.

VI. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

Prior to recommending discipline pursuant to Rule 3-7.6(k)(1), I considered the following:

A. Personal History of Respondent:

Age: 43

Date admitted to The Florida Bar: September 3, 1998

Prior Discipline: : In *Supreme Court Case No. SC06-2255, The Florida Bar File No. 2007-70,498(11L-MES)*, Respondent was emergency suspended as a result of allegations of misappropriation of funds in another Bar proceeding.

B. Factors Considered in Aggravation:

9.22(a) - prior disciplinary offenses;²

9.22(b) - dishonest or selfish motive;

9.22(e) - bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency.

9.22(f) - submission of false evidence, false statements, or other deceptive practices during the disciplinary process.

C. Factors Considered in Mitigation:

This referee did not find any mitigating factors that could be applied in the instant case.

VII. STATEMENT OF COSTS AND MANNER IN WHICH COSTS

SHOULD BE TAXED: I find the following costs were reasonably incurred by The

² While not a prior offense, in November, 2006 the Florida Supreme Court granted a petition for emergency suspension of Respondent based on her theft of client funds entrusted to her to hold in escrow, her failure to participate in the disciplinary investigation and the fact that she could not be found.

Florida Bar:

Administrative costs	\$		1250.
		00	
Court reporter attendance fee for December 13, 2006 final hearing.....	\$	200.00	
Court reporter attendance fee for January 3, 2007 hearing on final disposition.....	\$	75.00	
Auditor's costs	\$	476.00	
Process server's costs	\$	40.00	
		<hr/>	
TOTAL		\$2041.00	

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this _____ day of _____, 2006.

CELESTE H. MUIR, Referee
Circuit Court Judge

Dade County Courthouse
73 West Flagler Street
Room 308
Miami, Florida 33130

Copies to:

Arlene Kalish Sankel and Jennifer R. Falcone Moore, Bar Counsel
Alexis Summer Moore, Respondent
Kenneth L. Marvin, Staff Counsel