

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Supreme Court Case
No. SC07-2213
SC07-2425

Complainant,

vs.

The Florida Bar File
No. 2007-70,168(11J)
No. 2007-70,511(11J)
No. 2008-71,036(11J)

GAIL TURGEL SCOPINICH,

Respondent.

_____ /

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(a) of the Rules Regulating The Florida Bar, review of a consent judgment for discipline was undertaken. All of the pleadings, notices, motions, orders, and exhibits are forwarded with this report and the foregoing constitute the record in this case.

The following attorneys appeared as counsel for the parties:

On Behalf of The Florida Bar: Margarita I. Cimadevilla
The Florida Bar
444 Brickell Avenue
Suite M-100
Miami, Florida 33131

On Behalf of the Respondent: Richard Baron
Richard Baron & Associates
501 NE 1st Avenue,
Suite 200
Miami, Florida 33132

Respondent submitted an Unconditional Guilty Plea, Stipulation to Probable Cause and Consent Judgment for Discipline “Consent Judgment” which provides for a one (1) year suspension.

In response, Complainant filed a Petition for Approval of Consent Judgment for Discipline which reflects the position of The Florida Bar, as approved by a Designated Reviewer of the Eleventh Judicial Circuit, that Respondent’s plea be accepted.

II. FINDINGS OF FACT:

In this consent judgment, Respondent admits certain factual matters, which I hereby accept and adopt as the findings of fact in this cause to wit:

ON SUPREME COURT CASE NO. SC07-2425:

- A. On or about August 24, 2001, Ace Recovery, Inc. retained Respondent to represent the corporation in defending a lawsuit against it and another defendant, Progressive Insurance Company. Respondent was paid a retainer of \$1,500.00 at that time.

- B. On or about September 4, 2001, Respondent filed a Notice of

Appearance for Ace Recovery.

- C. Respondent never filed an Answer, Affirmative Defenses or a Motion to Dismiss, despite the fact that a copy of a pleading entitled as such and bearing Respondent's name was received by Ace Recovery.
- D. On or about December 30, 2002, the plaintiff filed a Motion for Default.
- E. Respondent did not file a Response.
- F. On or about February 10, 2004, final judgment was entered against Ace Recovery in the amount of \$15,000.
- G. On or about August 11, 2006, Ace Recovery filed a grievance with The Florida Bar detailing the above failures by Respondent.
- H. On or about August 22, 2006, and then again on September 25, 2006, The Florida Bar requested that Respondent respond to the allegations made in the grievance.
- I. Respondent never responded to the inquiry of The Florida Bar.

ON SUPREME COURT CASE NO. SC07-2213:

- J. In 2005, Respondent represented Ms. Earline Davis in a foreclosure action.

- K. At the conclusion of the proceedings, and after the proceeds from the sale of the property were distributed, it was determined that Plaintiff's attorney had been overpaid approximately \$7,200.00 which Plaintiff's attorney was ordered to return to Ms. Davis.
- L. On or about August 2, 2005, Plaintiff's attorney sent to Respondent two checks in the amounts of \$7,146.95 and \$89.40 representing the overpayments being refunded to Ms. Davis.
- M. Respondent never cashed the checks, nor did she forward the amounts to her client.
- N. Numerous telephone calls by Ms. Davis to Respondent went unanswered.
- O. On or about November 2, 2006, Ms. Davis filed a grievance with The Florida Bar.
- P. Pursuant to the Bar's efforts, Ms. Davis eventually received replacement checks on or about April, 2007.

ON THE FLORIDA BAR FILE NO.: 2008-71,036 (11J)

- Q. Respondent has stipulated to probable cause, has waived her right to have the matter heard by the Grievance Committee and has consented to the undersigned referee considering this matter.
- R. The Respondent represented complainant Cynthia Hughes as the Debtor in a bankruptcy matter.
- S. After the Debtor's debts were discharged, the Respondent failed to adequately communicate with the client and comply with a court order on a Motion to Compel resulting in the Respondent and the Debtor both being held in contempt of Court and the discharge being revoked. Consequently, the Respondent was ordered to pay the Trustee in Bankruptcy the sum of \$700.00 which she failed to pay.
- T. The Client has since retained new counsel who is in the process of reinstating the discharge.

III. RECOMMENDATION AS TO GUILT:

Based upon Respondent's admissions, I recommend that Respondent be found guilty as follows:

- U. **ON SUPREME COURT CASE NO. SC07-2425:** I recommend that the Respondent be found guilty of violating Rules 4-1.3 (diligence), 4-

3.2 (expediting litigation), and 4-8.4(g) (failure to respond in disciplinary matter) of the Rules of Professional Conduct.

V. ON SUPREME COURT CASE NO. SC07-2213: I recommend that Respondent be found guilty of violating Rules 4-1.3 (diligence) and 4-1.4 (communication) of the Rules of Professional Conduct.

W. ON THE FLORIDA BAR FILE NO.: 2008-71,036 (11J): I recommend that Respondent be found guilty of violating Rules 4-1.3 (diligence) and 4-1.4 (communication) of the Rules of Professional Conduct.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

Having reviewed the record of these proceedings, I find that Respondent's plea and the recommendation of The Florida Bar as to terms of discipline are both fair to the Respondent and in the best interest of the public. Accordingly, Respondent's Unconditional Guilty Plea, Stipulation to Probable Cause and Consent Judgment for Discipline and the term of discipline recommended by The Florida Bar are accepted and hereby adopted as the recommendation of this Referee in this matter. It is recommended that Respondent be suspended from the practice of law for a period of

one (1) year with the additional condition that she enter into a contract with Florida Lawyer's Assistance within thirty (30) days of the execution of the consent judgment.

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED:

I find the following costs were reasonably incurred by The Florida Bar in these proceedings and should be assessed against the Respondent:

Administrative fee	\$ 1,250.00
Rule 3-7.6(o)(1)(I)	
TOTAL:	\$ 1,250.00

I recommend that the foregoing costs be assessed against the Respondent. It is further recommended that the execution issue with interest at the statutory rate to accrue on all costs not paid within 30 days of entry of the Supreme Court's final order.

VI. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

Age: 57

Date Admitted to the Bar: January 27, 1987

Prior disciplinary record:

- Respondent was suspended for a period of 30 days and placed on probation for a period of three (3) years by Order of the Supreme Court of Florida dated September 8, 2005, in Supreme Court Case No. SC04-2191, The Florida Bar File Nos. 2004-70,513, 2004-70,997, 2004-71,072 and 2004-71,380.
- Respondent was suspended for a period of 90 days and by Order of the Supreme Court of Florida dated October 27, 2005, in Supreme Court Case No.

SC05-1581, The Florida Bar File No. 2005-71,341.

Dated this ____ day of June, 2008.

CATHERINE POOLER, Referee
Dade County Courthouse
73 West Flagler Street
Room 612
Miami, Florida 33130

Copies to:

Richard Baron, Attorney for Respondent
Margarita I. Cimadevilla, Bar Counsel
Kenneth L. Marvin, Staff Counsel