

**IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)**

**THE FLORIDA BAR,**  
  
**Complainant.**

**Supreme Court Case  
No. SC08-833**

v.

**GARY MARK MILLS,**  
  
**Respondent.**

**The Florida Bar File  
Nos. 2008-51,528(15C)(FFC)  
2008-50,724(17A)  
2007-50,207(17A)**

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**REPORT OF REFEREE**

**I. SUMMARY OF PROCEEDINGS:**

On May 1, 2008, The Florida Bar filed its Notice of Determination or Judgment of Guilt. On May 2, 2008, the Supreme Court suspended respondent, based on his felony conviction. The undersigned was appointed to preside as referee in this proceeding pursuant to the order entered by the Honorable Joseph P. Farina, Chief Judge of the Eleventh Judicial Circuit of Florida. After due deliberation, I have determined to recommend that respondent's Guilty Plea and Consent to Disbarment be approved, for the reasons set forth herein. The pleadings, and all other papers filed in this cause, which are forwarded to the Supreme Court of Florida with this report, constitute the entire record.

During the course of these proceedings, respondent appeared pro se; The Florida Bar was represented by Lorraine Christine Hoffmann.

## II. FINDINGS OF FACT:

A. Jurisdictional Statement: Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary of Case:

1. The Florida Bar File Nos. 2008-50,724(17A) and 2008-51,528 (15C)(FFC): On January 24, 2008, in the case styled United States of America v. Gary Mark Mills, as filed in the United States District Court, Southern District of Florida under Case No. 07CR20773, respondent pled guilty to one count of conspiracy to commit bank fraud, in violation of Title 18, United States Code, Section 1349. The court accepted respondent's plea and found respondent guilty as charged. Respondent was sentenced on April 23, 2008, to a prison term of 46 months, to be followed by a 5-year term of supervised release. Pursuant to his conviction in this case, The Florida Bar filed a Notice of Determination or Judgment of Guilt, on May 1, 2008. Respondent was suspended from the practice of law by Order of the Supreme Court of Florida, entered on May 2, 2008, with an effective date of June 2, 2008.

2. The Florida Bar File No. 2007-50,207(15C): Respondent and Keith Meccarielli (hereinafter "Meccarielli") had both a business and a

personal relationship. In 1999, Alan Schiffman (hereinafter “Schiffman”) purchased Condominium unit 1706 at the Continuum Condominium. Schiffman paid approximately \$1.4 million for the unit. In 2004, Schiffman experienced financial problems and sought to refinance unit 1706. Schiffman was unable to find conventional refinancing. Thereafter, Schiffman discussed his refinancing problem with Meccarielli, who offered Schiffman an alternative to conventional refinancing. Specifically, Meccarielli suggested that Schiffman quit-claim deed his condominium unit to Meccarielli’s business, IWC. Using the condominium as collateral, Meccarielli and IWC would, thereafter, increase its line of credit with Wachovia Bank, and allow Schiffman to draw on that line of credit. Schiffman stated that his agreement with Meccarielli was as follows: as soon as Schiffman repaid any loans he obtained against the IWC line of credit, Meccarielli would return the condominium unit to him, via another quit-claim deed. [Respondent stated that he had no knowledge of the agreement between Schiffman and Meccarielli.] Schiffman accepted Meccarielli’s offer, and executed a quit-claim deed, on Continuum Condominium unit 1706, to Meccarielli and IWC, on October 29, 2004. Notwithstanding Schiffman’s understanding of his agreement with Meccarielli, IWC quickly transferred the property via a second deed,

executed on November 22, 2004. [Again, respondent claimed no knowledge of the agreement between Schiffman and Meccarielli.] By this deed, IWC transferred Continuum Condominium unit 1706 to respondent and IWC. Neither respondent nor Meccarielli ever informed Schiffman that Schiffman's condominium unit had been reconveyed, in any manner. In January 2005, respondent sold Continuum Condominium unit 1706, for \$2.15 million. Neither respondent nor Meccarielli ever informed Schiffman that respondent had sold Schiffman's condominium unit. Further, Schiffman claims that he received none of the proceeds from the sale of his condominium unit. Schiffman only learned about the sale of his condominium unit when he discovered that respondent had sent a letter to the mortgage holder, requesting a payoff amount. Such letter purported to contain Schiffman's signature. Schiffman denied any and all knowledge of this letter, and also denied that he signed it. Schiffman stated that he never met respondent, never hired him to represent him in any matter or capacity, and never authorized him to act as his attorney or to represent his interests, at any time or in any manner.

### **III. RECOMMENDATION AS TO GUILT:**

Based upon the consent judgment executed by all parties, I find the Respondent guilty of having violated R. Regulating Fla. Bar **4-4.1(a)** [In the course

of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person.]; **4-4.1(b)** [In the course of representing a client a lawyer shall not knowingly fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client unless disclosure is prohibited by rule 4-1.6]; **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.]; **4-8.4(b)** [A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.]; **4-8.4(c)** [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.]; and **4-8.4(d)** [A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice...].

**IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:**

I recommend that respondent be found guilty of misconduct justifying disciplinary measures and that he be disciplined as follows:

- A. Respondent should be disbarred from the practice of law in Florida.
- B. Respondent should pay The Florida Bar's costs in this matter.

Disbarment is the presumptive sanction for a lawyer convicted of a felony. In The Florida Bar v. Heptner, 887 So. 2d 1036 (Fla. 2004), the Supreme Court of Florida held that an attorney's felonious criminal conduct warranted disbarment. In

The Florida Bar v. Bustamante, 662 So. 2d 687 (Fla. 1995), the Supreme Court held that pleading guilty to a federal felony warranted disbarment. In the instant case, respondent lawyer has consented to his own disbarment.

**V. PERSONAL HISTORY, PAST DISCIPLINARY RECORD AND AGGRAVATING AND MITIGATING FACTORS:**

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

A. Personal History of Respondent:

Age: 49

Date admitted to The Florida Bar: September 29, 1995

B. Aggravating Factors: Florida Standard for Imposing Lawyer Sanctions 9.22:

(b) dishonest or selfish motive;

(c) a pattern of misconduct;

(d) multiple offenses.

C. Prior Discipline: None

D. Mitigating Factors: None

**VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED:**

I find that The Florida Bar has incurred reasonable costs in the matter and that same should be assessed against the respondent, as follows:

A.	Grievance Committee Level Costs:	
1.	Court Reporter Costs	\$ - 0 -
2.	Bar Counsel Travel Costs	\$ - 0 -
B.	Referee Level Costs:	
1.	Court Reporter Costs	\$ - 0 -
2.	Bar Counsel Travel Costs	\$ - 0 -
C.	Administrative Costs	\$1,250.00
D.	Auditor Costs	\$ - 0 -
E.	Miscellaneous Costs:	
1.	Investigator Costs	\$ 82.90
2.	Copy of transcript from US District Ct.	\$ 30.60
3.	Copy Costs	\$ 58.05
4.	Computer search and technical assistance	\$ 5.75
5.	Translation Services Fees	<u>\$ - 0 -</u>
	<b>TOTAL COSTS</b>	<b><u>\$1,427.30</u></b>

It is recommended that such costs be charged to respondent and that interest at the statutory rate shall accrue and be deemed delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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HONORABLE SHELDON R. SCHWARTZ  
REFEREE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to THE HONORABLE THOMAS D. HALL, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, FL 32399-1927, and that copies were mailed by regular mail to the following: STAFF COUNSEL, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300; and LORRAINE CHRISTINE HOFFMANN, Bar Counsel, The Florida Bar, 5900 North Andrews Avenue, Suite 900, Fort Lauderdale, FL 33309-2366; and to GARY MARK MILLS, Respondent, 5732 Via De La Plata Circle, Delray Beach, FL 33484 on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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SHELDON R. SCHWARTZ, REFEREE