

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

**Supreme Court Case  
No. SC09-1011**

**Florida Bar File No. 2006-71,063  
(11N)**

**THE FLORIDA BAR,**

Complainant,

v.

**CHARLES MAYS,**

Respondent.

**FILED**  
THOMAS D. HALL  
2010 MAR 29 AM 11:14  
CLERK, SUPREME COURT  
BY \_\_\_\_\_

**REPORT OF THE REFEREE**

**I. SUMMARY OF PROCEEDINGS:**

The Florida Bar filed two separate cases against Respondent Charles Mays and Respondent Henry Adorno alleging violations of the disciplinary code of conduct. The undersigned was appointed as Referee by the Honorable Victor Tobin, Chief Judge of the 17<sup>th</sup> Judicial Circuit to act as Referee in both cases. The cases were consolidated for discovery and later consolidated for trial. The cases against Respondents arise out of a similar set of facts and circumstances.

## **II. FINDINGS OF FACT RE: TFB No. 2006-71,063 & SC09-1011**

**A. Jurisdictional Statement:** Respondent Charles Mays was at all times a member of The Florida Bar and subject to the jurisdiction and Disciplinary Rules of the Florida Supreme Court.

**B. Narrative Summary in case #SC09-1011:** The Florida Bar alleges Respondent Charles Mays violated the code of conduct for attorney's by failing to be completely forthright with a court or tribunal or by misleading a court or tribunal. He is alleged to be subject to bar discipline for violating various provisions of Rules 4-3.3 and 4-8.4. Respondent Mays was a city attorney representing the City of Miami in the underlying action.

The disciplinary proceedings against him emanate from an underlying case seeking class certification for alleged improper emergency medical assessment fees imposed by the City of Miami on residents of the City of Miami. A more detailed description of the events giving rise to this disciplinary case are recited in *Carl L. Masztal et al v The City of Miami* by the 3rd District Court of Appeal. Further, attached hereto is the Referee's Final Order on Cross Motions for Final Summary Judgment. The parties agreed there were no material issues of disputed fact and the questions before the Referee were questions of law.

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

#### **A. Case #SC1011 The Florida Bar v. Charles Mays**

The Referee recommends that Respondent Charles May be found not guilty of violating any rules of conduct of the disciplinary code.

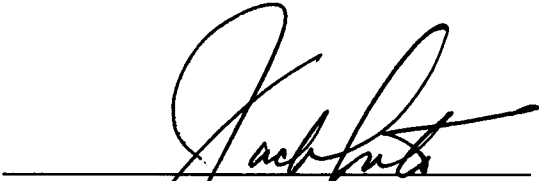
ALL parties, the Bar, Mays and Adorno conceded there were NO issues of a material fact and as such each urged the Referee to enter summary judgment in their favor. Inasmuch as there were no disputed issues of fact, the Referee finds The Florida Bar must prove the charges against Respondent by clear and convincing evidence.

Florida jury instructions define clear and convincing evidence as:  
*“that precise explicit, lacking in confusion and of such weight that it produces a firm belief or conviction, without hesitation about the matter.”*  
Applying the evidentiary standard of clear and convincing evidence to the undisputed facts of this case, the Referee cannot say without hesitation that Mays’ silence constituted a violation of the disciplinary rules.

The Referee therefore recommends Respondent Mays be found not guilty of all charged violations.

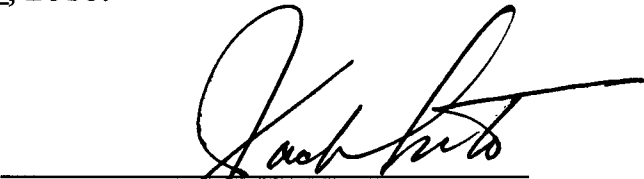
A copy of the Referee’s Final Order on Cross Motions for Summary Judgment is attached hereto and the findings incorporated by reference.

No cost affidavits were submitted in the aforesaid case.

  
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Jack Tuter, Circuit Court Judge, 17th  
Judicial Circuit and Referee  
Broward County Courthouse  
201 SE 6th Street, Room 1010B  
Fort Lauderdale, FL 33301

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this order has been mailed to Kenneth Lawrence Marvin, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399, Kasey L. Prato, Bar Counsel, 444 Brickell Ave., Suite 100, Miami FL 33131, Andrew S. Berman, counsel for Henry Adorno, 17071 W. Dixie Highway, North Miami Beach, FL 33160, Bruce Rogow, counsel for Henry Adorno, 500 E. Broward Blvd., Suite 1930, Fort Lauderdale, FL 33394 and George F. Knox, counsel for Charles Mays 150 SE 2nd Ave, Suite 902, Miami FL 33160, and by email to The Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, [e-file@flcourts.org](mailto:e-file@flcourts.org), this 3 day of march, 2010.

  
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Jack Tuter, Circuit Court Judge, 17th  
Judicial Circuit and Referee  
Broward County Courthouse  
201 SE 6th Street, Room 1010B  
Fort Lauderdale, FL 33301