

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

**THE FLORIDA BAR,**

**CASE NO. SC10-1249**

**Complainant,**  
**v.**

**TFB NO. 2009-70,354(6D)**  
**2009-70,891(6D)**  
**2010-70,059(6D)**

**JAMES ERIC HACK,**

**Respondent.**

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**REPORT OF REFEREE**

I. Summary of Proceedings: The undersigned was duly appointed as Referee in these disciplinary proceedings. The parties have agreed to a Conditional Guilty Plea for Consent Judgment, which I recommend that the Court accept. Any pleadings, notices, motions, orders, transcripts, and exhibits are forwarded to The Supreme Court of Florida with this report and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Karen Boroughs Lopez

For The Respondent: Joseph Arnold Corsmeier

II. Findings of Fact as to Each Item of Misconduct With Which the Respondent Is Charged: After considering all the pleadings and evidence before me, pertinent portions of which are commented on below, I find:

TFB No. 2009-70,354(6D) - Respondent undertook to represent a workers' compensation client that had been represented by another attorney. The client alleges that Respondent failed to return his calls and failed to assist him in his case. The client hired another lawyer who resolved the client's case. Respondent has been unable to demonstrate documentation of adequate communication with the client.

TFB No. 2009-70,891(6D) and No. 2010-70,059(6D) – Since the

1990's Respondent has maintained a practice in the Florida Keys. In 2007, Respondent also took over an office representing clients in St Petersburg for another lawyer who was suspended. The other lawyer, who was a personal friend of Respondent, consented to a two year suspension for Trust Accounting violations. Respondent allowed the friend's wife to serve as his office manager in the St. Petersburg office. The friend's wife, who was also a signatory on Respondent's Trust Account, proceeded to convert the client's money to her own use. Respondent learned of the conversion in 2009, after there were three NSF notices sent to The Florida Bar by Respondent's bank and the Bar made inquiries. Respondent terminated the employee and filed a report with the police. The employee has been charged with felony grand theft.

The Bar determined that Respondent did not maintain his Trust Accounting in accordance with the Rules Regulating Trust Accounts. There is no evidence that Respondent participated in the theft or knew about it before 2009. Respondent has used his own funds to return all known missing client money.

III. Recommendations as to Whether or Not the Respondent should Be Found Guilty: As to each count of the complaint I make the following recommendations as to guilt or innocence:

As to TFB No. 2009-70,354(6D), Rule 4-1.4 (failure to maintain reasonable communication with client);

As to TFB No. 2009-70,891(6D) and No. 2010-70,059(6D), Rule 4-5.3 (Responsibilities Regarding Non-lawyer Assistants); Rule 5-1.1 (Trust Accounts); and Rule 5-1.2 (Trust Accounting Records and Procedures).

IV. Recommendation as to Disciplinary Measures to Be Applied:

1. Ninety (90) day suspension.
2. Probation for a period of twelve months.
3. Attendance at Trust Accounting Workshop.
4. Quarterly audits of his Trust Account to be conducted as

follows: Respondent agrees to retain, at respondent's expense, the professional services of a certified public accountant familiar with Florida Bar Trust accounting acceptable to The Florida Bar to review respondent's trust account records on a monthly basis during the one (1) year term of probation. Quarterly statements shall

be prepared by the certified public accountant for review by The Florida Bar. The quarterly reports will be due by the end of the month immediately following the end of the quarters which will be March 31, June 30, September 30, and December 31. The statements shall specify whether respondent is in compliance with the rules Regulating Trust Accounts and shall include the monthly reconciliations of respondent's trust account, with supporting documentation as may be requested by The Florida Bar auditor.

V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 3-7.6(m)(l), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Year of Birth: 1962

Date Admitted to Bar: October 6, 1987

Prior Disciplinary convictions and Disciplinary Measures Imposed Therein:  
None.

The referee notes that the Respondent is not certified in any area of practice.

Aggravating Factors: None

Mitigating Circumstances:

- a. absence of prior disciplinary record;
- b. absence of dishonest or selfish motive;
- c. personal or emotional problems: Respondent's father, who is 80 years old, underwent triple bypass surgery in March 2008 had, and continues to have, accelerated dementia/Alzheimer's. Respondent's father also had to be placed in an assisted living facility. Respondent's mother, who is 78 years old, is in failing health. Respondent is also taking care of his Aunt, who will be 91 years old in September 2011;
- d. full and free disclosure to disciplinary board or cooperative attitude toward proceedings;
- e. character or reputation;
- f. remorse; and
- g. imposition of other penalties or sanctions.

VI. Statement of Costs and Manner in Which Costs Should Be Taxed: I find the following costs were reasonably incurred by The Florida Bar:

Administrative costs pursuant to Rule 3-7.6(q)(1)(I) \$1,250.00

Court Reporter Costs: 1,166.80

Miscellaneous Costs:

S & W Process Service 50.00

**TOTAL:** \$2,466.80

It is recommended that all such costs and expenses, together with the foregoing itemized costs, be charged to the respondent and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case become final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 9th day of March, 2011.

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Honorable Chet A. Tharpe, Referee

Copies:

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