

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

TODD COREY DERATANY,

Respondent.

Case No. SC10-1292

[TFB Case Nos. 2009-30,157(18C);  
2009-30,164(18C); 2009-30,165(18C);  
2009-30,539(18C); 2009-31,059(18C);  
2009-31,134(18C); 2009-31,162(18C);  
2009-31,176(18C); 2009-31,512(18C);  
2009-31,520(18C)]

Case No. SC10-2383

[TFB Case Nos. 2010-31,045(18C);  
2010-31,024(18C)]

[TFB Case Nos. 2011-30,774(18C);  
2011-30,847(18C); 2011-30,904(18C);  
2011-30,921(18C); 2011-30,945(18C);  
2011-30,559(18C); 2011-30,933(18C);  
2011-30,946(18C); 2011-30,979(18C);  
2011-30,993(18C); 2011-30,999(18C)]

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**REPORT OF REFEREE ACCEPTING DISBARMENT ON CONSENT**

I. Summary of Proceedings: The undersigned was appointed as referee to conduct disciplinary proceedings herein according to the Rules Regulating The Florida Bar. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits, all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - Patricia Ann Toro Savitz and Frances R. Brown-Lewis

For The Respondent - *pro se*

II. Findings of Fact as to Each Item of Misconduct of which the Respondent Is Charged: After considering all the pleadings and evidence, pertinent portions of which are commented on below, this referee finds pursuant to Disbarment on Consent that the facts of the Disbarment on Consent are admitted. The Disbarment on Consent is attached hereto and incorporated herein.

III. Recommendations as to Whether the Respondent Should Be Found Guilty: As to each count of the complaints this referee makes the following recommendations as to guilt or innocence:

Pursuant to the Disbarment on Consent, this referee finds the respondent guilty as admitted in the Disbarment on Consent.

IV. Recommendation as to Disciplinary Measures to Be Applied: Pursuant to the Disbarment on Consent, this referee makes the following recommendations as to the disciplinary measures to be applied:

A. Immediate disbarment for a period of 10 years. Respondent agreed to cease the practice of law as of the date he executed the Disbarment on Consent.

B. Payment of costs which currently total \$8,245.00.

In making this recommendation I have considered the following Florida Standards for Imposing Lawyer Sanctions and case law:

#### 4.4 Lack of Diligence

4.41 Disbarment is appropriate when: (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

#### 4.5 Lack of Competence

4.51 Disbarment is appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

### 6.3 Improper Communications with Individuals in the Legal System

6.31 Disbarment is appropriate when a lawyer: (a) intentionally directly or indirectly tampers with a witness; or (b) makes an unauthorized ex parte communication with a judge or juror with intent to affect the outcome of the proceeding.

### 9.22 Aggravating Factors

- (a) prior disciplinary offenses;
- (c) pattern of misconduct; and
- (d) multiple offenses.

### 12.1 Aggravating Factors

- (b) actual harm to clients

### 9.32 Mitigating Factors

- (e) full and free disclosure to the disciplinary board and has had a cooperative attitude toward these proceedings;
- (h) physical or mental disability or impairment;
- (j) interim rehabilitation;
- (l) remorse; and
- (m) remoteness of prior offense.

*The Florida Bar v. Valentine-Miller*, 974 So. 2d 333 (Fla. 2008). Disbarment for abandonment of her law practice and intentional misappropriation of client funds despite the presence of numerous mitigating factors, including mental health problems, substance abuse problems, physical health problems, interim rehabilitation and remorse. In aggravation, the attorney refused to make restitution to her clients.

*The Florida Bar v. Catalano*, 685 So. 2d 1299 (Fla. 1996). Neglect of multiple clients, misappropriation and misrepresentation warrant disbarment in light of aggravating factors.

*The Florida Bar v. Setien*, 530 So. 2d 298 (Fla. 1988). The attorney was disbarred for ignoring his clients and neglecting their interests.

*The Florida Bar v. Ribowsky-Cruz*, 529 So. 2d 1100 (Fla. 1988). The Court held that disbarment was the appropriate sanction for abandoning her practice without notice and failing to refund unearned fees.

*The Florida Bar v. Hardman*, 516 So. 2d 262 (Fla. 1987). The Supreme Court held that the appropriate sanction for basically “abandon[ing] his law practice due to chemical dependency,” neglect, misuse of funds, and failing to pay another attorney for work performed on a client’s behalf, was disbarment despite the attorney’s intent and efforts at rehabilitation.

*The Florida Bar v. Friedman*, 511 So. 2d 986 (Fla. 1987). Disbarment was the appropriate sanction for completely abandoning his law practice thus neglecting several client matters, misappropriating and mishandling trust funds, and failing to appear and provide records pursuant to a grievance committee subpoena. The referee specifically noted “Respondent’s abandonment of his law practice evidenced a total disregard for the most fundamental obligations a lawyer owes to his clients.” The attorney was also required to pay restitution.

- V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to R. Regulating Fla. Bar 3-7.6(m)(1)(D), this referee considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 44

Date admitted to bar: June 23, 2007

Prior disciplinary convictions and disciplinary measures imposed therein:

*Florida Board of Bar Examiners re: Deratany*, Supreme Court Case No. SC07-697 [TFB File No. 2005-90,050(ARA)] – Respondent was readmitted to The Florida Bar by order of the Supreme Court of Florida on June 18, 2007.

*The Florida Bar v. Deratany*, Supreme Court Case No. SC96,823 [TFB File No. 2000-30,614(18C)(CRS)] – Respondent’s petition for disciplinary resignation was granted by order of the Supreme Court of Florida on January 13, 2000. The resignation was effective immediately upon entry of the order for a period of three years.

*The Florida Bar v. Deratany*, Supreme Court Case No. 94,515 [TFB File No. 1999-31,090(18C)(CFC)] – Automatic three-year suspension by order of the Supreme Court of Florida dated December 29, 1998 based on the Notice of Determination or Judgment of Guilt filed by The Florida Bar showing that the petitioner has been

convicted of a felony by the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida.

VI. Statement of costs and manner in which costs should be taxed: This referee finds the following costs were reasonably incurred by The Florida Bar.

A.	Grievance Committee Level Costs:	
1.	Court Reporter Costs	\$1,577.61
B.	Referee Level Costs:	
1.	Court Reporter Costs	\$ 985.10
C.	Administrative Costs (2 cases)	\$2,500.00
D.	Miscellaneous Costs:	
1.	Investigator Costs	\$3,021.67
2.	Copy Costs	<u>\$ 160.62</u>
	TOTAL ITEMIZED COSTS:	<u>\$8,245.00</u>

It is apparent that other costs have or may be incurred. 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 becomes final unless a waiver is granted by the Board of Governors of The Florida Bar. It is further recommended that respondent shall be deemed delinquent and ineligible to practice law pursuant to R. Regulating Fla. Bar 1-3.6 for failure to timely pay the costs assessed in this proceeding.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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F. SHIELDS MCMANUS  
Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

Patricia Ann Toro Savitz and Frances R. Brown-Lewis, Bar Counsel, 1000 Legion Place, Suite 1625, Orlando, Florida 32801;

Todd Corey Deratany, Respondent, 503 Fifth Avenue, Suite 102, Indialantic, Florida 32903;

Kenneth Lawrence Marvin, Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300

this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Judicial Assistant/Deputy Clerk