

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

THE FLORIDA BAR,

Complainant,

**CASE NO. SC10-1341
TFB NO. 2011-10,026 (6A) (OSC)**

v.

ANTONIO R. ARNAO,

Respondent.

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REPORT OF REFEREE

I. Summary of Proceedings: The undersigned was duly appointed as Referee to conduct 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: Antonio R. Arnao

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:

On or about March 12, 2010, Respondent was sent a letter by The Florida Bar advising him of TFB File No. 2010-10,085(6A), Complaint of Guerda Castor and was requesting his response by March 29, 2010. Respondent failed or refused to respond to The Florida Bar. On April 26, 2010, Respondent was sent a Notice of

Assignment of Investigating Member, advising him to contact the Investigating Member of the Grievance Committee within ten (10) days. Respondent failed or refused to contact the Investigating Member. On or about April 21, 2010, The Florida Bar received an Inquiry/Complaint, TFB File No. 2010-11,270(6A), Complaint of Dave Sorenson. On or about April 26, 2010, Respondent was sent a letter advising him of a complaint in this case and was requested to respond within fifteen (15) days to The Florida Bar with a copy directly to the Grievance Committee Investigating Member. Respondent failed to timely respond to The Florida Bar or the Grievance Committee. On or about April 30, 2010, Michael Lunsford, Staff Investigator for The Florida Bar, met with Respondent at his law office in Clearwater, Florida and hand-delivered to him a copy of the complete file pertaining to Ms. Castor's and Mr. Sorenson's complaint. Mr. Lunsford advised Respondent to contact The Florida Bar. Respondent failed to contact Bar counsel or the Grievance Committee investigating Member or otherwise respond to the Bar regarding Ms. Castor's complaint. Respondent failed to contact Bar counsel or the Grievance Committee investigating Member concerning Mr. Sorenson's complaint.

On or about July 12, 2010, The Florida Bar filed a motion for contempt. Respondent filed a response on August 2, 2010. The Supreme Court suspended Respondent effective December 1, 2010. Respondent has been suspended since that time.

III. Recommendations as to Whether or Not the Respondent should Be Found Guilty: I recommend that the Conditional Guilty Plea be accepted and that Respondent be found guilty of violating the following Rule Regulating The Florida Bar: **Rule 4-8.4(g)** (failure to respond, in writing, to any official inquiry by Bar Counsel or a disciplinary agency when an investigation is being conducted into the lawyer's conduct).

8. IV. Recommendation as to Disciplinary Measures to Be Applied:

Respondent shall receive a 60 day suspension nunc pro tunc to the date of suspension. The Respondent is currently suspended and will not need the 30 days to protect existing clients.

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: 1956

Date Admitted to Bar: February 15, 1988

Prior Disciplinary convictions and Disciplinary Measures Imposed Therein:

1. 2004-10,837 (6C), SC06-1971 – Supreme Court order of October 12, 2006 for Public Reprimand with condition of LOMAS.

2. 2011-10,026 (6C), SC10-1341 – Supreme Court order of November 1, 2010 for indefinite suspension effective December 1, 2010.

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

Mitigating Factors: (a) Personal or emotional problems: At the time the Bar complaints arose Respondent was suffering from depression that caused him to be unresponsive to clients and The Florida Bar. Respondent sought assistance from FLA and has been evaluated and counseled for depression. He has since entered into an FLA contract and has been attending group sessions for several months.

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)	\$625.00
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<u>Court Reporter Costs:</u>	\$187.50
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<u>Miscellaneous Expenses:</u>	\$27.09
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TOTAL:	<u>\$839.59</u>
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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 _____ day of April, 2011.

Honorable Richard A. Nielsen, Referee

Copies:

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