

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. SC09-1744

[TFB Case Nos. 2009-30,117(07A);
2009-30,706(07A);
2009-30,882(07A);
2009-30,937(07A);
2009-31,081(07A);
2009-31,447(07A)]

v.

Case No. SC10-414

[TFB Case Nos. 2010-30,340(07A);
2010-30,425(07A);
2010-30,667(07A)]

Case No. SC10-416

[TFB Case No. 2010-30,680(07A)]

J. CHRISTOPHER RICH,

Respondent.

TFB File No. 2010-31,348(07A)

TFB File No. 2010-31,365(07A)

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REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

- 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 - Keshara Darcel Davis

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 the Conditional Guilty Plea for Consent Judgment that the facts of the Consent Judgment are admitted. The Conditional Guilty Plea for Consent Judgment is attached hereto and incorporated herein.

III. Recommendations as to Whether the Respondent Should Be Found Guilty: As to each count of the complaint this referee makes the following recommendations as to guilt or innocence: Pursuant to the Conditional Guilty Plea for Consent Judgment, this referee finds the respondent guilty as admitted in the Conditional Guilty Plea for Consent Judgment.

IV. Recommendation as to Disciplinary Measures to Be Applied: Pursuant to the Conditional Guilty Plea for Consent Judgment, this referee makes the following recommendations as to the disciplinary measures to be applied:

A. Ninety-one day suspension from the practice of law.

B. Respondent shall participate in the Fee Arbitration Program of The Florida Bar with the following clients: Veronica Kussman; Ivette Keller; James Mark Winters; William Lugo; Frederick Moorner; Alan Szekely; and Anthony R. Annatone. Respondent must comply with this condition of the Consent Judgment for Conditional Guilty Plea by signing a fee arbitration agreement within thirty (30) days of the date of the Court's order accepting this Consent Judgment for Guilty Plea. Respondent agrees to be bound by the decision of the arbitrator and make payment in full within the time frame specified in the award or within (30) days of the award becoming final, if an award is given to the client. Failure to abide by the decision of the arbitrator is in direct violation of this Consent Judgment for Guilty Plea. In order for The Florida Bar's Fee Arbitration Department to proceed, respondent must first submit an application to the Fee Arbitration Coordinator, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, 800-342-8060, within thirty (30) days of the Court's order accepting this Consent Judgment for Conditional Guilty Plea. Respondent must provide proof of submission of this application to the Bar's headquarter's office in Tallahassee. All fee arbitration awards should contain a specific date in which the award is to be paid or within 30 days of the award becoming final pursuant to R. Regulating Fla. Bar 1-3.6(d).

C. Payment of costs, as set forth more fully herein.

In recommending the above disciplinary measures, this referee considered the following Florida Standards for Imposing Lawyer Sanctions and case law:

4.4 Lack of Diligence

4.42 Suspension is appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

6.2 Abuse of the Legal Process

6.22 Suspension is appropriate when a lawyer knowingly violates a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

9.22 Aggravating Factors

- (c) a pattern of misconduct; and,
- (i) substantial experience in the practice of law.

9.32 Mitigating Factors

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) personal or emotional problems;
- (h) physical or mental disability or impairment; and,
- (l) remorse.

1. In The Florida Bar v. Summers, 728 So.2d 739 (Fla. 1999), an attorney was suspended for 91 days and ordered to attend Ethics School for failing to comply with numerous directives of a federal judge, for neglecting to respond to the Bar's inquiries, and for failing to appear at the final disciplinary hearing. The attorney had previously been suspended until she answered a complaint of The Florida Bar regarding her CLER credits and dues requirements and for ten days thereafter.

2. In The Florida Bar v. Nowacki, 697 So. 2d 828 (Fla. 1997), an attorney received a 91-day suspension for engaging in a pattern of neglect. The Bar filed a five-count complaint against Nowacki alleging failure to keep several clients reasonably informed and failure to act with reasonable diligence and promptness in dealing with them. Nowacki's total efforts in representing one client consisted

of merely reviewing a temporary support order, receiving numerous letters from the client, and eventually withdrawing from representation. The Bar's complaint also involved an instance of dishonest conduct regarding the payment of a former employee for time worked in the respondent's law office. The Court found that there was a "persistent pattern of client neglect and mismanagement by the respondent."

3. In The Florida Bar v. Flowers, 672 So.2d 526 (Fla. 1996), an attorney received a 91-day suspension for engaging in conduct prejudicial to the administration of justice, for failing to provide competent representation to a client, for failing to respond in writing to investigative inquiries, for failing to act with reasonable diligence and promptness in representing a client, for failing to adequately communicate with a client, and for ratifying the misconduct of a non-lawyer associate.

4. In The Florida Bar v. Brakefield, 679 So. 2d 766 (Fla. 1996), an attorney received a 6-month suspension for failing to clarify the status of representation and discuss fees, for failing to attend depositions and hearings, for failing to keep clients reasonably informed, and for failing to act with reasonable diligence and promptness. Brakefield's prior admonishment for similar misconduct was considered in aggravation.

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: 42

Date admitted to bar: March 30, 1998

Prior disciplinary convictions and disciplinary measures
imposed therein: None

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	\$ 195.00
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B.	Referee Level Costs:	
1.	Court Reporter Costs	\$ 255.00
C.	Administrative Costs	\$ 1,250.00
D.	Miscellaneous Costs:	
1.	Investigator Costs	\$ 1,157.36
2.	Copy Costs	\$ 131.55
	TOTAL ITEMIZED COSTS:	\$ 2,988.91

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 _____, 2010.

HENRY E. DAVIS
Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

Keshara Darcel Davis, Bar Counsel, The Florida Bar, 1200 Edgewater Drive,
Orlando, Florida 32804-6314

J. Christopher Rich, Respondent, 124 East Rich Avenue, Deland, Florida 32724

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

this _____ day of _____, 2010.

Judicial Assistant/Deputy Clerk