

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

JEFFREY MARTIN HANLY,

Respondent.

Case No. SC11-1217

TFB File Nos. 2011-00,615(4B),
2011-00,645(4B),
2011-00,694(4B),
2011-00,695(4B),
2011-00,718(4B),
2011-00,724(4B),
2011-00,801(4B)

REPORT OF THE REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

On June 17, 2011, The Florida Bar filed its Complaint against Respondent as well as its Request for Admissions in these proceedings. A Motion for Summary Judgment was filed August 18, 2011, based upon Respondent's failure to answer the Bar's Request for Admissions. On September 19, 2011, summary judgment was granted to The Florida Bar finding Respondent guilty of the violations cited in the Formal Complaint. Based upon the findings of guilt, a Final Hearing as to appropriate discipline was held on September 19, 2011. All items properly filed including

pleadings, recorded testimony (if transcribed), exhibits in evidence and the report of referee constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Narrative Summary Of Case.

COUNT I

Investigation by The Florida Bar as a result of numerous complaints against Respondent shows Respondent has abandoned his law practice and has misappropriated trust funds.

A partial audit of Respondent's trust account showed Respondent misappropriated trust funds belonging to Barry and Margaret Babish totaling approximately \$79,000.

COUNT II

Babish Complaint

TFB File No. 2011-00,615(4B)

Respondent acted as an escrow agent in the sale of a condominium in Jacksonville, Duval County, Florida, where Barry and Margaret Babish were the purchasers.

Respondent received, and was to hold in escrow, the sum of \$79,900.

Respondent was made party of a lawsuit in Duval County, Florida, concerning the sale of the condominium in his role as escrow agent.

Summary judgment was entered in the lawsuit requiring Respondent to deliver the escrowed \$79,900 to the Babishes. Respondent was ordered to pay over the \$79,900 which he failed to do.

The Babishes obtained a temporary injunction freezing Respondent's trust account where the escrow funds had been held. Review of Respondent's trust account showed a balance of \$2.

Respondent's law office had its electricity cut off for nonpayment and Respondent cannot be found.

Plaintiff's attorney, Vincent Gallagher, issued an affidavit referencing his attempts to locate Respondent and obtain the escrow funds held by Respondent.

COUNT III

Feely Complaint

TFB File No. 2011-00,645(4B)

Vicki Feely retained Respondent to handle a Chapter 7 bankruptcy. She paid Respondent a fee of \$1,500.

Respondent was to meet with Ms. Feely on December 30, 2010, to file her Chapter 7 bankruptcy.

Ms. Feely has been unable to locate Respondent and his office telephone line was disconnected. Respondent failed to answer his personal cell phone or return email correspondence.

Respondent failed to perform the legal services he was paid to provide by Ms. Feely and has failed to refund her fees.

COUNT IV

Hammond Complaint

TFB File No. 2011-00,694(4B)

Respondent was paid \$850 by Kimberly Hammond to start bankruptcy proceedings on her behalf. Respondent was paid on October 25, 2010.

Ms. Hammond asked for a refund of her fee on December 4, 2010, after no action had been taken on her bankruptcy by Respondent.

Respondent emailed Ms. Hammond on January 26, 2011, that he was sending her a refund of her fees. Respondent failed to refund these fees as represented.

COUNT V

Steven Complaint

TFB File No. 2011-00,695(4B)

In June 2010, Jeffrey Steven and his wife hired Respondent for \$3,500 to handle their bankruptcy.

After filing the bankruptcy petition for the Stevens, Respondent ceased communicating with them.

Respondent failed to appear at a scheduled hearing in bankruptcy court on the Stevens' petition.

The Stevens were forced to make at least one decision in their bankruptcy by themselves because Respondent would not respond to their telephone calls or text messages regarding the proceedings.

COUNT VI

Simeonidis Complaint

TFB File No. 2011-00,718(4B)

Calli Simeonidis retained Respondent to handle three bankruptcies and a loan modification.

Although Respondent was paid for the legal services, he only filed one petition and abandoned his law practice.

COUNT VII
Hughes Complaint
TFB File No. 2011-00,724(4B)

Steven Hughes paid Respondent \$2,000 on August 11, 2010, to handle a bankruptcy.

Respondent abandoned Mr. Hughes without obtaining his bankruptcy requiring Mr. Hughes to obtain new counsel at additional expense.

COUNT VIII
Whidby Complaint
TFB File No. 2011-00,801(4B)

Dwayne Whidby paid Respondent \$3,500 in October 2010 to file a Chapter 13 bankruptcy for him and his wife, Becky Whidby.

Respondent failed to complete his representation of the Whidbys in their bankruptcy case.

As a result of Respondent abandoning his practice, the Whidbys were required to obtain other representation.

The Whidbys demanded a refund of their legal fees which Respondent has failed to repay.

Respondent has failed to respond to any of the complaints set forth above as required by Rule 4-8.4(g)(1) of the Rules Regulating The Florida Bar.

III. RECOMMENDATIONS AS TO GUILT.

I recommend that Respondent be found guilty of violating Rules 4-1.3 (Diligence), 4-1.4(a) (Informing Client of Status of Representation), 4-1.5(a) (Illegal, Prohibited, or Clearly Excessive Fees and Costs), 4-8.4(b) (A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness

as a lawyer in other respects.), 4-8.4(c) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.), 4-8.4(d) (A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice.), 4-8.4(g)(1) (A lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency, as defined elsewhere in these rules, when bar counsel or the agency is conducting an investigation into the lawyer's conduct. A written response shall be made within 15 days of the date of the initial written investigative inquiry by bar counsel, grievance committee, or board of governors.), 5-1.1 (Trust Accounts), 5-1.2 (Trust Accounting Records and Procedures) of the Rules Regulating The Florida Bar.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

- A. Disbarment.
- B. Payment of The Florida Bar's costs in these proceedings.

V. PERSONAL HISTORY, PAST DISCIPLINARY RECORD AND AGGRAVATING AND MITIGATING FACTORS

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1), I considered the following:

A. Personal History of Respondent:

Age: 35 years old

Date admitted to the Bar: September 23, 2002

B. Aggravating Factors:

- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (i) substantial experience in the practice of law; and
- (j) indifference to making restitution.

C. Mitigating Factors: None.

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	
to Rule 3-7.6(q)(1)(I), Rules of Discipline	\$ 1,250.00
Auditor Travel Expenses	350.04
Investigative Costs and Expenses	<u>355.41</u>
 TOTAL	 \$ 1,955.45

It is recommended that such costs be charged to respondent and that interest at the statutory rate shall accrue and be deemed delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.

Dated this _____ day of _____, 2011.

Belle B. Schumann, Referee
Volusia County Courthouse Annex
125 E. Orange Avenue, Suite 202
Daytona Beach, FL 32114-4400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to THE HONORABLE THOMAS D. HALL, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927, and that copies were mailed by regular U.S. Mail to KENNETH LAWRENCE MARVIN, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300; JAMES N. WATSON, JR., Bar Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300; and JEFFREY MARTIN HANLY, Respondent, at his record Bar address of 1312 Third Street North, Jacksonville Beach, Florida 32250-7348, on this _____ day of _____, 2011.

Belle B. Schumann, Referee