

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

DANIEL NATHAN HOSKINS,

Respondent.
_____ /

Case No. SC11-1266

[TFB File Nos. 2010-31,653(09E);
2011-30,035(09E);
2011-30,722 (09E)]

[TFB File Nos. 2011-31,149(09E);
2011-31,225(09E);
2011-31,365(09E);
2012-30,074(09E);
2012-30,220(09E);
2012-30,246(09E)]

REPORT OF THE REFEREE ACCEPTING CONSENT JUDGMENT

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 22, 2011, The Florida Bar filed its Complaint against respondent in these proceedings. On August 18, 2011, a Telephonic Case Management Conference was conducted. All of the aforementioned pleadings, responses thereto, exhibits received in evidence, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida.

The following attorneys appeared as counsel for the parties:

For The Florida Bar – Kenneth H. P. Bryk

For the Respondent – Daniel Nathan Hoskins, Pro Se

II. FINDINGS OF FACT

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 GUILT

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. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

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.

7.0 Violations of Other Duties Owed as a Professional. 7.2 Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

9.22 Aggravating Factors: (c) a pattern of misconduct; (d) multiple offenses; (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (h) vulnerability of victim; and (i) substantial experience in the practice of law (admitted 1996).

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; (j) interim rehabilitation; and, (l) remorse.

V. CASE LAW

I considered the following case law prior to recommending discipline: In The Florida Bar v. Herman, 8 So. 3d 1100, 1108 (Fla. 2009), quoting The Florida Bar v. Rotstein, 835 So. 2d 241, 246 (Fla. 2003), the court stated “this Court ‘has moved towards stronger sanctions for attorney misconduct’ in recent years.”

In The Florida Bar v. Varner, 992 So.2d 224 (Fla. 2008), the attorney received a one-year suspension for engaging in one act of client neglect and misrepresentation by filing a voluntary dismissal without obtaining the client's consent to do so. The voluntary dismissal of claim significantly postponed its resolution given the fact that the statute of limitations had run on the claim, and the case had to be reopened extraordinarily and settled much later by successor counsel. The attorney had no communication with his client and failed to provide the successor counsel with a copy of client's file.

In The Florida Bar v. Broome, 932 So. 2d 1036 (Fla. 2006), the attorney received a one-year suspension for engaging in multiple instances of client neglect, inadequate communication, contempt, excessive fees, an instance of misrepresentation, and a failure to respond to the Bar's investigation. In one of those instances, Broome waived a criminal defendant's speedy trial rights without his knowledge or consent and later failed to forward that defendant's file to successor counsel.

In The Florida Bar v. Morrison, 669 So. 2d 1040 (Fla. 1996), the attorney received a one-year suspension for failing to act with reasonable diligence and promptness, failing to keep the client reasonably informed, and failing to respond in writing to inquiry by disciplinary agency during investigation.

VI. 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 as follows:

A. Respondent shall be suspended from the practice of law for a period of 18 months;

B. Respondent shall pay restitution to Kerry-Ann Nugent in the amount of \$750, Elmo Salazar in the amount of \$2,600, Gerard Bruneus in the amount of \$1,050, Alice Burgess in the amount of \$4,500 and Belinda Diaz in the of \$2,500. Respondent must make restitution within three years of the Court's order.

C. As a condition of this suspension, respondent shall participate in the Fee Arbitration Program of The Florida Bar with his clients, Ruben Questell, Edna Luxenberg and Sixto Caraballo. Respondent must comply with this condition of the suspension by signing a fee arbitration agreement within 30 days of the date of this order.

D. Respondent agrees to be bound by the decision of the arbitrator and make payment in full within the time frame specified in the award if an award is given to the client. Failure to abide by the decision of the arbitrator is in direct violation of the court's order.

E. 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 **30** days of the court's order. Respondent must provide proof of submission of this application to the Bar's headquarters' office.

F. Respondent may not petition for reinstatement to resume the practice of law until respondent pays the restitution as detailed above in paragraphs B, C and D. Respondent must submit proof of payment of restitution to the Bar's headquarters office in Tallahassee. Respondent shall provide verifiable proof of payment and receipt which shall consist of a copy (front and back) of the negotiated checks or a copy of the checks and certified return receipts.

VII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following personal history of Respondent, to wit:

Age: 41

Date admitted to the Bar: April 26, 1996

Prior Discipline: None

VIII. 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	1,250.00
Court Reporters Fees	\$205.00
Investigative Costs and Expenses	\$226.20
Photocopying Costs	\$14.70
TOTAL	\$1695.90

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within thirty days of said judgment becoming final, Respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 3rd day of October, 2011.

/S/
HONORABLE GARY L. SWEET
Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

Kenneth H. P. Bryk, Bar Counsel, The Florida Bar, 1000 Legion Place, Suite 1625,
Orlando, Florida 32801-1050

Daniel Nathan Hoskins, Respondent, Interlachen Mortgage, Inc., 1154 Adair Park
Place, Orlando, Florida 32804-6201

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