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IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

NATALIE RENEE JONES,

Respondent.

_______________________________/

Supreme Court Case
No. SC24-1317

The Florida Bar File
No. 2024-30,615(7B)(CES)

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS

The undersigned was appointed as referee to preside over disciplinary proceedings in the above-referenced case under Rule 3-7.6 of the Rules Regulating The Florida Bar. Throughout these proceedings, the bar was represented by Bar Counsel, Lisa J. Ramsey and Laura N. Gryb. The respondent was represented by Christopher Laing Clark and filed her own notice of appearance to act as co-counsel during the proceedings.

On September 11, 2024, The Florida Bar (the bar) filed a Petition for Emergency Suspension against the respondent and attached the affidavit of the bar's auditor. Based on the petition and the sworn allegations of the bar's auditor, the Supreme Court of Florida (Court) suspended respondent from the practice of law pursuant to Rule 3-5.2, on September 16, 2024, and directed the undersigned referee, in his role as Chief Judge of the Tenth Judicial Circuit, to appoint a referee. The following day, in a letter to the clerk of court, the Court was notified that the undersigned would serve as referee throughout these proceedings.

Before the case management conference was held on October 16, 2024, the respondent filed a Notice of Waiver of Time Limits, waiving the time limits set forth in rule 3-5.2. Although the respondent requested a continuance of the expedited proceedings at the case management conference, the undersigned referee declined to grant additional time and set the final hearing on guilt for November 22, 2024.

Four days before the date scheduled for the final hearing, on November 18, 2024, the respondent filed a Stipulation as to Guilt, admitting that the allegations set forth in the bar's petition were true and correct. The respondent also filed an Unopposed Motion to Accept Stipulation of Guilt and Bifurcate Sanctions Phase. The undersigned referee set a status hearing at which the bar stipulated to respondent's guilt and did not object to proceeding to a hearing on the issue of determining an appropriate sanction. Respondent requested an additional sixty days to prepare for the sanction hearing and, with no objection from the bar, the undersigned referee approved respondent's written waiver of time limits and scheduled the sanction hearing for Tuesday, January 28, 2025. The Court granted the undersigned referee's request for an extension of time to file the report of referee on or before March 17, 2025. The undersigned referee set new deadlines for the parties to exchange witness and exhibit lists for purposes of the sanctions hearing.

On January 21, 2025, the respondent filed a Motion for 90-Day Extension of Time to Obtain Medical Analysis Relevant to Mitigating Factors. The undersigned referee held a hearing on the motion on January 22, 2025, and denied respondent's motion. The day before the sanction hearing, on January 27, 2025, the respondent filed an Emergency Motion for 30-day Continuance Based on New Evidence. On January 28, 2025, before proceeding to the sanctions hearing, the undersigned referee heard argument on the motion for an extension of time but, ultimately, denied the motion as it failed to address new arguments.

The sanction hearing proceeded, whereupon the respondent called two witnesses who appeared remotely: Marc Thirstrup, a consultant who testified that he assisted lawyers understand evidence related to brain abnormalities and Daniel Hanecak, a California lawyer who represents clients in personal injury cases who had experienced traumatic brain injuries. The bar entered exhibits 1 - 20 into evidence and called its only witness, Matthew Herdeker, a C.P.A. and senior auditor for the bar.

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 filed with the Supreme Court of Florida. References to exhibits are included to assist the Court in its review

II. FINDINGS OF FACT

Jurisdictional Statement. The respondent is, and at all times mentioned during these proceedings was, a member of The Florida Bar, subject to the jurisdiction and Rules Regulating The Florida Bar adopted by the Supreme Court of Florida.

Narrative Summary of Case.

Clear and convincing evidence demonstrates that respondent misappropriated client funds and was not in substantial compliance with the rules governing trust accounts. Respondent was disingenuous in her responses to the bar's inquiries. Respondent's stipulation of guilt as to the rule violations alleged in the bar's petition, as well as the evidence and testimony presented during the sanction hearing, establish the following facts:

Over a period of three years, the respondent used money in her trust account for her personal expenses, causing shortages in her trust account that she never reported. The respondent prepared settlement statements for six clients that reflected the settlement proceeds would be offset by debts owed to medical providers who had treated the respondent's clients. The respondent, however, did not pay any of the medical providers she included in those settlement statements and, instead, converted the money. She has made no effort to pay the medical providers, other than sending them letters promising to pay at some later date.

The respondent's trust accounting practices first came to the bar's attention when Bank of America notified the bar on March 26, 2024, that there was an overdraft of $2,402.57 on respondent's trust account. *See* Exhibit 1. The bar sent a letter to respondent, requesting that she explain the circumstances that caused the overdraft on her trust account and provide documents corroborating her explanation. *See* Exhibit 2. In her response, dated April 24, 2024, the respondent stated that the overdraft occurred because she was unexpectedly diverted from her task of depositing a settlement check into her trust account on March 25, 2024, after she had already sent a trust check to her client with the expectation that her client would receive it two days later. *See* Exhibit 3. Respondent did not initially disclose that the check she intended to deposit was related to a settlement for a different client. *See* Exhibit 3, pages 5, 6, and 11.

It was not until the bar initiated a compliance audit, requesting that respondent provide various trust account records for the period November 1, 2023 through April 30, 2024, that the bar's auditor determined, contrary to respondent's explanation of events, the shortage in her account was caused when she disbursed her fees of $2,500.00 for a client's settlement on March 13, 2024, two weeks before she deposited the settlement check for that matter into her trust account. *See* Exhibit 5, pages 56-59, 63-65. Respondent, therefore, used funds owed to one client to pay herself $2,500.00 in attorney's fees for settling a case involving a different client.

As the respondent had caused a shortage in her trust account by disbursing her fees before depositing the settlement for that client, the bar expanded the audit period to April 1, 2021. *See* Exhibit 6. Respondent provided various records in response to the bar's request and, in her letter, dated June 25, 2024, respondent admitted that, "[i]n September 2021", she "resorted to utilizing the medical providers' funds to pay for the cost of living" because "[t]he alternative would have rendered my son and me homeless." *See* Exhibit 8, page 227.

Based on a review of the records Bank of America and the respondent provided, the bar's auditor, identified a shortage ranging from $3,333.33 to $36,727.50 in respondent's trust account from December

2020 to June 2024. On June 30, 2024 (the last day of the audit period), the respondent should have held balances totaling $36,727.50[1] for six clients in the trust account. The balances would have covered the money owed to clients or their medical providers from insurance settlements. The bank balance in the trust account, however, was only $7.43. Respondent caused the shortage by issuing 11 checks and one electronic transfer to herself in amounts totaling $37,890.00. The memo lines of the checks were blank, and respondent's journal entries described those checks as "personal." *See* Exhibit 7, page 81, Exhibit 16. Of that total, only $1,162.50 can be attributed to costs respondent was entitled to collect based on a client settlement agreement. Even after the bar had initiated its audit of her trust account, respondent wrote a check to herself from her trust account in the amount of $90.00 on June 17, 2024, when that money was not owed to her for fees or costs. *See* Exhibit 11, page 623.

In letters dated April 25, 2024, May 21, 2024, and August 14, 2024, the bar asked the respondent to provide a receipts and disbursements journal, client ledgers, monthly reconciliations and monthly comparisons for

[1] The shortage amount of $37,052.50 as stated in the petition was later reduced by $325.00 in costs owed to the respondent. The bar's auditor testified that the settlement statements were provided after the petition was filed. Therefore, the shortage was $36,727.50.

her trust account. The respondent was required to maintain those records pursuant to Chapters 4 and 5 of the Rules Regulating The Florida Bar. The respondent provided two journals, neither of which was compliant with the trust accounting rules. The respondent did not provide any client ledgers, monthly reconciliations, or monthly comparisons and conceded that she was not in compliance with Rule 5-1.2(b)(6). *See* Exhibit 7. Notwithstanding the respondent's acknowledgement that she had not complied with Chapter 5 of the Rules Regulating The Florida Bar, she misled the bar when she certified that she was in compliance when she paid her membership dues in 2021, 2022, and 2023. *See* Exhibit 18.

During the sanction hearing, the respondent presented two witnesses who attempted to connect a prior brain injury respondent allegedly sustained as potentially being a causal factor of her subsequent conduct. Despite not having provided the bar with sufficient notice of the witnesses, the undersigned referee allowed them to testify. Neither of the respondent's witnesses were licensed physicians and, after considering all of the evidence and testimony, the undersigned referee determined that the respondent's alleged medical condition, even if supported, would not sufficiently mitigate the presumption of disbarment in this matter.

The respondent's conduct in converting money from her trust account that was specifically reserved for medical providers was calculated and designed to avoid detection over many years. The respondent prepared written settlement statements that appeared to represent a fair distribution of the proceeds, including payment to various medical providers for services rendered in advance of payment. She conducted a well-planned scheme over several years in which she used that money for her personal expenses without detection. In addition to misappropriating funds over a period of several years, the respondent was dishonest in her initial responses to the bar and failed to return the funds to the trust account or pay the medical providers.

III. RECOMMENDATIONS AS TO GUILT.

Based upon the stipulation of guilt filed by the respondent on November 18, 2024, the undersigned referee recommends that the respondent be found guilty of violating the following Rules Regulating The Florida Bar:

1. 4-1.15 (Safekeeping Property; Compliance with Trust Accounting Rules). The respondent did not comply with the rules regulating trust accounts.

2. 4-8.4(c) (Misconduct). The respondent misrepresented that she was in compliance with the trust accounting rules when she certified

compliance in 2021, 2022 and 2023. She knew this was false as she admitted to converting money from her trust account as early as September 2021. She conducted a scheme to deceive her clients into believing that she had used a portion of the settlement proceeds to compensate medical providers that were owed money for services rendered when she was instead, using that money for her personal expenses. She was dishonest in her explanations to the medical providers as to why she had not compensated them. She misrepresented her actions to the bar when the bar was alerted to an overdraft in her trust account in an attempt to escape detection.

3. 4-1.5(f)(5) (Fees and Costs for Legal Services; Contingent Fees). The respondent did not timely produce executed closing statements for four settlements she received from December 2019 to January 2021.

4. 5-1.1(a)(1) (Nature of Money or Property Entrusted to Attorney; Trust Account Required; Location of Trust Account; Commingling Prohibited). The respondent did not hold in trust the funds of her clients or third persons as required. She failed to notify the bar of the shortage in her trust account.

5. 5-1.1(b) (Application of Trust Funds or Property to Specific Purpose). The respondent disbursed money in her trust account for

purposes other than those intended by the client.

6. 5-1.1(e) (Notice of Receipt of Trust Funds; Delivery; Accounting). The respondent did not promptly deliver to the client or medical provider the funds to which they were entitled.

7. 5-1.2(b)(3), (6), (7) Minimum Trust Accounting Records). The respondent did not maintain the minimum trust accounting records and did not clearly identify the client or case in the memo area of the checks she disbursed to herself.

8. 5-1.2(d)(1) (Minimum Trust Accounting Procedures). The respondent's journal did not comply with the rules as she disbursed money to herself and identified it as "personal".

IV. <u>PERSONAL HISTORY, PAST DISCIPLINARY RECORD</u>

Before recommending discipline under Rule 3-7.6(m)(2)(D), Rules Regulating The Florida Bar, the undersigned referee considered the following:

Respondent's Age: 59

Date admitted to the Bar: May 26, 1994

Prior Discipline: None

V. <u>STANDARDS FOR IMPOSING LAWYER SANCTIONS</u>

The undersigned referee considered the following Standards for

Imposing Lawyer Sanctions before recommending discipline:

A. Standard 4.1 - Failure to Preserve the Client's Property

(a) Disbarment is appropriate when a lawyer intentionally or knowingly converts client property regardless of injury or potential injury.

B. Standard 5.1 - Failure to Maintain Personal Integrity

(a)(6) Disbarment is appropriate when a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

C. Standard 3.2(b) - Aggravated Factors

(2) dishonest or selfish motive;

(3) a pattern of misconduct;

(4) multiple offenses;

(9) substantial experience in the practice of law; and

(10) indifference to making restitution.

D. Standard 3.3(b) – Mitigating Factor

(1) absence of a prior disciplinary record.

The undersigned referee finds that the evidence put forward by the respondent to show she suffered from a cognitive deficit was not well-defined. The only testimony presented by the respondent was of a lawyer and non-doctor experienced in cases where a person suffered from cognitive issues. The undersigned referee finds that the evidence of the scheme conducted by the respondent over multiple years where she deliberately took money that was not apportioned to the client, but to the medical providers on behalf of the client meant that it would be much harder for her to be caught. In fact, the only reason she was caught was because she had an overdraft on her trust account and the bar started an audit. The respondent's scheme was well-thought-out and well-executed which belies her suggestion that her conduct was the result of cognitive issues. Based on the clear and convincing evidence of the respondent's intentional misappropriation of trust account funds, the undersigned referee did not find additional mitigating factors.

VI. CASE LAW

The undersigned referee considered the following case law before recommending discipline:

A. The Florida Bar v. Bander, 361 So. 3d 808 (Fla. 2023): A lawyer was disbarred for converting client property for his own benefit. After being placed on notice by a prior SEC investigation that commissions or kickbacks to a law firm are prohibited when representing clients in EB-5 immigration applications, Bander accepted $90,000.00 over two years from a local regional center to which he referred three EB-5 clients for investment. These funds were placed in his operating account and used to pay firm expenses. When the SEC learned of these payments, they issued a subpoena to take Bander's deposition. Bander, under oath, stated that the funds were not payments to him, but rather were payments by the regional center to reimburse legal fees paid by the clients. He stated, on numerous occasions throughout the deposition, that the funds did not belong to him, but rather belonged to the clients. In his responses to the bar, Bander indicated the payments were properly deposited into the firm's operating account because the clients authorized same in their retainer agreements, but otherwise maintained a position consistent with his testimony before the SEC. At the final hearing, however, Bander claimed the funds as his own fees. He stated that his SEC testimony was designed to address the SEC's concerns about kickbacks. The referee issued a report rejecting Bander's testimony at the final hearing as devoid of all credibility and found multiple aggravating factors to support disbarment.

B. The Florida Bar v. Horton, 332 So. 3d 943 (Fla. 2019): The Court held that disbarment was warranted where the lawyer intentionally misappropriated client funds, engaged in a pattern of misconduct involving multiple clients over a period of approximately two years. In Horton, the clients were elderly and had no support from family. The Court found that

Horton deliberately or knowingly engaged in dishonest and deceitful conduct. Similarly, here, respondent's scheme continued over a period of years and the misappropriation involved the funds for multiple clients. Unlike Horton, however, respondent did not refund the trust account or pay the medical providers.

C. The Florida Bar v. Mirk, 64 So. 3d 1180 (Fla. 2011): The lawyer was disbarred for misappropriating approximately $31,000.00 in client funds held in his trust account. The lawyer claimed that he had an agreement with the client entitling him to a flat fee but such agreement was not in writing and the client had not acknowledged the agreement. The Court stated that in the context of lawyer discipline, there is never a valid reason for misappropriating client funds in trust and disbarment is the presumed appropriate sanction in cases involving misappropriation.

D. The Florida Bar v. Travis, 765 So. 2d 502 (Fla. 2000): The Court held that intentionally misappropriating client funds over a substantial period of time warranted disbarment rather than a 90-day suspension even though the lawyer had no past disciplinary record, had performed good works for the community and cooperated with the bar. Similarly, the respondent in Travis failed to make restitution when he had an opportunity to do so just as the respondent, here, failed to return the money or pay the medical providers.

E. The Florida Bar v. Alters, 260 So. 3d 72 (Fla. 2018): The Court overruled a referee's recommendation of a lesser sanction and imposed disbarment due to the lawyer misappropriating client money and engaging in dishonest and deceitful conduct by using one client's money to pay obligations owed to another client. The law firm made numerous improper transfers from the trust account to cover overdrafts in the operating account. The lawyer never reported the trust accounting violations to the bar, did not hire an auditor to audit the trust account until after the matter had been reported to the bar, and did not replenish the trust account for more than year from when he admitted to first finding out about the trust account deficit. The Court, in Alters, rejected the lawyer's argument that he lacked the requisite intent and determined that knowingly or negligently engaging in sloppy recordkeeping amounts to intent. The Court noted that the overwhelming majority of cases involving misuse of trust funds results in disbarment, regardless of mitigation. Similarly, in the instant case, the respondent also paid one client with funds owed to another client in several instances and she engaged in dishonesty in trying to prevent the bar from discovering the shortages in her trust account.

F. The Florida Bar v. Valentine-Miller, 974 So. 2d 333 (Fla. 2008): A lawyer was disbarred for grossly inadequate recordkeeping and misappropriation despite the presence of significantly more mitigation than in the instant case. There, the lawyer's poor recordkeeping made it impossible to determine the exact total of client funds she converted. She admitted that she owed some of her clients' money, but when she received their settlement funds, she paid herself her fee and refused to remit the balance to the clients. The lawyer, there, presented significant mitigation in her defense of the bar's disbarment recommendation, including that she was suffering from cancer, severe substance abuse problems for which she voluntarily sought treatment, and other significant personal problems. The lawyer's extensive and compelling mitigation failed to overcome the well-established presumption that disbarment is the appropriate sanction for misappropriation.

E. The Florida Bar v. McFall, 863 So. 2d 303 (Fla. 2003): The Court imposed a three-year suspension instead of disbarment for an lawyer's misappropriation of funds from his trust account but noted that the referee found eleven mitigating factors including that the lawyer had made restitution. Here, in contrast, the respondent did not make restitution and had only one mitigating factor.

F. The Florida Bar v. Taller, 775 So. 2d 944 (Fla. 2000): This case is one in which the Court imposed a three-year suspension rather than disbarment because the lawyer made timely and good faith restitution to the clients. Taller is distinguishable because, here, the respondent did not make restitution.

G. The Florida Bar v. Shuminer, 567 So. 2d 430 (Fla. 1990): The lawyer entered into an unconditional guilty plea to various misappropriation violations. The referee found mitigating factors of personal and emotional problems from drug and alcohol addiction, timely good faith efforts to make restitution, cooperation, remorse, mental impairment due to addiction, successful attempts at treatment and good character. The Court disbarred the lawyer even with that mitigation.

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

The undersigned referee recommends that the respondent be found guilty of misconduct justifying disciplinary measures and be disciplined by:

A. Immediate disbarment from the practice of law with leave to reapply for readmission to The Florida Bar in five years.

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

VIII. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

The following costs were reasonably incurred by The Florida Bar:

Administrative Fee	$1,250.00
Audit Costs	$4,322.70
Auditor Travel Costs	$306.07
Bar Counsel Costs	$508.23
Copy Costs	$417.60
Court Reporters' Fees	$1,536.00
Investigative Costs	$177.60
TOTAL:	$8,518.20

The undersigned referee recommends that the above costs be charged to the respondent and that interest accrue at the statutory rate. The respondent will be 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 10th day of March, 2025.

/s/ James Alan Yancey
Hon. James Alan Yancey, Referee

Filed with the Supreme Court of Florida via the Florida Courts E-Filing Portal with copies served via the Portal to:

Lisa J. Ramsey, Bar Counsel, The Florida Bar, lramsey@floridabar.org, orlandooffice@floridabar.org

Laura N. Gryb, Chief Branch Discipline Counsel, The Florida Bar, lgryb@floridabar.org

Christopher Laing Clark, Counsel for Respondent, miami@1nlf.com

Patricia Ann Toro Savitz, Staff Counsel, psavitz@floridabar.org