Filing # 223426009 E-Filed 05/19/2025 02:37:05 PM

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

JENNIFER ANN ZARKA,

Respondent.

_______________________________/

Supreme Court Case No. SC25-0165

The Florida Bar File No. 2025-00,187(4C)

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. SUMMARY OF PROCEEDINGS

The undersigned was appointed as referee to conduct disciplinary proceedings under R. Regulating Fla. Bar 3-7.6 to preside over the proceedings in this case.

On February 6, 2025, The Florida Bar (the bar) filed its reciprocal complaint against the respondent. The Supreme Court of Florida entered an order on February 6, 2025, designating the Chief Judge of the Second Judicial Circuit of Florida to appoint a referee in this case. On February 7, 2025, the undersigned was appointed to serve as the referee. On April 30, 2025, the respondent entered into a consent judgement for 1-year suspension to be followed by 4 years of non-reporting probation upon reinstatement.

Throughout these proceedings, the bar was represented by Baker Chapman, Esq. The respondent appeared *pro se*.

All of the pleadings, responses, exhibits received in evidence, and this report constitute the record in this case and are filed with the Supreme Court of Florida.

II. FINDINGS OF FACT

A. Jurisdictional Statement. The respondent is a member of The Florida Bar, subject to the jurisdiction and Rules Regulating The Florida Bar adopted by the Supreme Court of Florida.

B. Narrative Summary of Case. This is a reciprocal discipline action resulting from discipline imposed in Texas. Based on the Agreed Judgment of Partially Probated Suspension, dated October 25, 2024, which includes respondent's suspension from the practice of law for the period of one (1) year beginning November 1, 2024 and ending October 31, 2025.

The following allegations and rules provide the basis for the respondent's guilty plea and for the discipline to be imposed in this matter:

In December 2015, Edward Griffin ("Mr. Griffin") agreed to sell a house he owned in Bexar County, Texas. Prior to closing the sale, Mr. Griffin learned his former fiancée, Raquel Moore ("Ms. Moore"), was also named on the deed to the property. Ms. Moore claimed she was entitled to a portion of the sale proceeds, which Mr. Griffin disputed.

On January 5, 2016, Mr. Griffin hired the Zarka Allen Law Firm for representation regarding this dispute.

Pursuant to an Escrow Agreement, signed January 11, 2016, the Zarka Allen Law Firm accepted the net sale proceeds of $36,143.53 from the closing title company to be held in trust until the dispute between Mr. Griffin and Ms. Moore was resolved.

The Escrow Agreement stated the funds could be disbursed by agreement between Mr. Griffin and Ms. Moore or pursuant to a court order. Alternatively, the escrow agent could resign and deposit the sale proceeds into a court registry.

At all times material, respondent was an owner of the Zarka Allen Law Firm and an account holder and signatory on the IOLTA trust account where the sale proceeds were deposited.

Respondent filed an interpleader on May 17, 2024, and deposited the sale proceeds into the court registry on June 25, 2024.

Respondent assumed responsibility for Mr. Griffin's legal matter after an associate attorney left the firm in mid-2016.

Respondent failed to promptly comply with reasonable requests from Mr. Griffin regarding the status of his legal matter.

Respondent failed to hold the real estate sale proceeds in trust. Respondent gave notice on October 4, 2021, that she was resigning as escrow agent but failed to promptly deposit the sale proceeds into a court registry.

The Agreed Judgment of Partially Probated Suspension between respondent and the Texas Bar states that respondent knowingly made a false statement of material fact at a hearing held June 26, 2024 in the Texas disciplinary matter.

III. RECOMMENDATIONS AS TO GUILT

Based on the agreed findings of fact, the Investigatory Panel found that Respondent violated Texas Disciplinary Rules of Professional Conduct: 1.03(a) (Communication: A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information), 1.14(a) (A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property, 1.14(b) (Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person) and 8.01(a) (Bar Admission, Reinstatement, and Disciplinary Matters: knowingly make a false statement of material fact).

In accordance with Rule 3-4.6, of the Rules Regulating The Florida Bar, reciprocal discipline that results in a final adjudication in a disciplinary proceeding by a court or other authorized disciplinary agency of another jurisdiction, state or federal, will be considered as conclusive proof of the misconduct in the disciplinary proceeding under the rule.

IV. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Before recommending discipline under R. Regulating Fla. Bar 3-7.6(m)(2)(D), I considered the following personal history of the respondent:

Age: 53

Date admitted to the Bar: September 27, 2023

Prior Discipline: None in Florida

V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Florida Standards for Imposing Lawyer Sanctions before recommending discipline:

I find the following mitigating factors:

(1) absence of prior disciplinary record; respondent has no prior discipline in Florida; and

(6) inexperience in the practice of law; at the time of the misconduct in 2021, respondent had been barred in Texas for approximately 7 years and was not admitted in Florida until 2023.

I find the following aggravating factors:

(6) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; respondent knowingly made a false statement of material fact at a hearing held June 26, 2024 in Texas.

VI. CASE LAW

I considered the following case law before recommending discipline:

The Florida Bar v. Mogil, 763 So.2d 303 (Fla. 2003) - A foreign jurisdiction's adjudication of guilt is conclusive proof of guilt of the attorney misconduct charged; the burden then rests with the attorney to demonstrate why the foreign judgment is not valid or why Florida should not accept it and impose sanctions based thereon.

The Florida Bar v. Wanda I. Rufin, SC22-821 [2023 WL 5761930] – By Court order dated September 7, 2023, the court suspended respondent for 1 year. The parties entered into a consent judgment after the final hearing but prior to the sanction hearing. While representing the husband in a dissolution of marriage, respondent made partial unauthorized distributions of the trust funds from the proceeds of the sale of the marital home. When the Court ordered a final equitable distribution to the former wife, respondent failed to advise the Court about the remaining balance of the marital funds held in a second escrow account. Respondent has disgorged the full amount to the former wife. The referee found that while Rufin's conduct was negligent and sloppy, she did not find that it was intentional or part of a deliberate scheme to defraud the divorce trial judge or to intentionally take funds that belonged to another.

The Florida Bar v. Brian John Murtha, SC15-2011 & SC16-581 [2016 WL 5944709] – By Court order dated October 13, 2016, the Court approved the consent judgment for a **91-day suspension**.

Respondent's trust account was not in compliance: he engaged in sloppy recordkeeping which resulted in shortages which were corrected, and he failed to perform required trust account procedures. There was no intentional misuse of trust funds. Respondent also failed to maintain adequate communication with his clients' agents. He failed to diligently handle four matters resulting in dismissals. He paid restitution. Respondent failed to timely respond to the bar.

The Florida Bar v. Pamela Bruce Stuart, SC16-2204 [2017 WL 56362] – By order dated January 5, 2017, pursuant to a consent judgment, the court **suspended respondent for one year**. Respondent was appointed by her father as the trustee to her family's trust. As trustee, respondent loaned herself money to maintain a building that she personally purchased as an investment property and took other loans throughout the years to assist her in the trust responsibilities and to support her own living and medical expenses. Respondent failed to comply with the terms of the trust that required the loans to be secured by collateral and an adequate interest rate. Respondent intended to repay the loans made to the trust. The referee found that respondent breached her fiduciary duties by failing to provide the required annual accountings and loaning herself substantial monies from the trust.

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

I recommend that the respondent be found guilty of misconduct justifying disciplinary measures and be disciplined by:

A. 1-year suspension requiring reinstatement;

B. four (4) years' non-reporting probation to commence upon reinstatement; and

C. payment of The Florida Bar's costs.

On entry of the Court's order, the respondent must immediately:

A. accept no new clients from the date of the order;

B. initiate no litigation on behalf of clients from the date of the order;

C. provide a copy of the suspension order to all courts, tribunals, or adjudicative agencies before which the respondent is counsel of record; all state, federal, or administrative bars of which the respondent is a member; all clients; all co-counsel; and all opposing counsel, as required by Rule 3-5.1(h);

D. provide a copy of the suspension order to all banks and financial institutions where the respondent maintains any account holding funds of clients or third parties in the respondent's possession in connection with representation; and

E. comply with, and provide all documents and testimony responsive to, a subpoena from the bar for trust account records and any related documents necessary for the bar to conduct a trust account audit.

Within 30 days from the date of the Court's order, the respondent must:

A. cease all practice of law in Florida;

B. cease holding the respondent out as a Florida Bar member or lawyer and eliminate all indicia of the respondent's status as a Florida Bar member or lawyer on websites, social media, telephone listings, stationery, checks, business cards, office signs, email address, and any other indicia of the respondent's status as a Florida Bar member or lawyer;

C. withdraw from representation of all clients;

D. wind down all pending matters;

E. cease withdrawing or disbursing any money from any trust account or other financial institution account holding funds of clients or third parties in the respondent's possession in connection with legal representation;

F. not transfer any ownership of any real or personal property purchased in whole or in part with funds of clients or third parties in connection with legal representation;

G. provide the bar's headquarters office in Tallahassee with an affidavit listing all of the following that the respondent notified of the suspension order: all courts, tribunals, or adjudicative agencies of which the respondent is a member; all state, federal, or administrative bars of which the respondent is a member; all clients; all co-counsel; all opposing counsel; and each bank or financial institution in which the respondent maintains any account holding funds of clients or third parties in the respondent's possession in connection with representation; and

H. provide the bar's headquarters office in Tallahassee with a listing of the receipt and location of any fees or other sums received in connection with the practice of law received by the respondent after issuance of the suspension order.

The respondent must fully comply with Rule 3-5.1(h).

The respondent also must fully comply with Rule 3-6.1, if applicable.

VIII. <u>STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED</u>

I find the following costs were reasonably incurred by The Florida Bar:

Administrative Fee		$1,250.00
Court Reporter Fee		180.00
Investigative Costs		7.95
	TOTAL	$1,437.95

I recommend that the above costs be charged to the respondent and that interest accrue at the statutory rate. If the respondent does not satisfy the cost judgment within 30 days of the judgment becoming final, the respondent will be delinquent and ineligible to practice law under R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 19th day of May, 2025.

/s/ Anthony B. Miller
Hon. Anthony Bernard Miller, Referee
301 S. Monroe Street, #301-F
Tallahassee, FL 32301-1861

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

Baker Christian Chapman, Bar Counsel, bchapman@floridabar.org
Jennifer Ann Zarka, Respondent, zarkaj@mac.com
Patricia Ann Toro Savitz, Staff Counsel, psavitz@floridabar.org