

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
  
Complainant,

v.

STEVEN EDWARD AMSTER,  
  
Respondent.

Supreme Court Case  
No. SC2024-1362

The Florida Bar File  
No. 2019-50,255(17E)

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**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 September 18, 2024, The Florida Bar (the bar) filed its complaint against the respondent. The Supreme Court of Florida entered an order on September 20, 2024 designating the Chief Judge of the Eleventh Judicial Circuit of Florida to appoint a referee in this case. On September 23, 2024, The Honorable Nushin G. Sayfie, Chief Judge of the Eleventh Judicial Circuit of Florida appointed the undersigned to serve as the referee.

Throughout these proceedings, the bar was represented by Bar

Counsel Joi Pearsall. Respondent was represented by Marilyn Marie Byrd. The parties presented a Conditional Guilty Plea for Consent

Judgment for Discipline. I recommend that respondent's Conditional Guilty Plea for Consent Judgment be approved, for the reasons set forth herein.

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. 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.

B. Narrative Summary Of Case.

As to The Florida Bar File No. 2019-50,255(17E)

- A. Respondent was hired to provide legal representation to Tomas Diaz ("client") in a criminal case styled State of Florida v Tomas Diaz, Duval County, FL Case No. 16-2015-CT-013194-AXXX-MA.
- B. When respondent agreed to provide legal representation to the client in the Duval County court case, respondent's law office was located in Miami-Dade County, FL.

- C. Respondent agreed to provide legal representation to the client for a flat fee of \$5,000.00. The client entered a written retainer agreement with The Law Offices of Steven E. Amster, P.A., and remitted \$5,000.00 to respondent.
- D. Pursuant to the retainer, the \$5,000.00 deposit was non-refundable. The retainer also stated that the client's case was considered closed when either a verdict was reached, the case was dismissed, or the client entered a plea.
- E. After the client entered his plea in the *State v Diaz*, respondent provided additional legal representation to the client in matters related to a violation of probation in the *State v Diaz* case, but he did not execute a new written fee agreement with the client.
- F. Respondent contacted the client on three separate occasions and requested a total of \$50,000.00 in additional funds, however, respondent neglected to memorialize in writing that the new representation would be on the same terms as the prior representation, i.e., a non-refundable flat fee.
- G. The client's mother, Elda Diaz, authorized the bank to make three separate wire transfers to respondent's operating account for the additional legal services for the client's benefit.

H. Respondent represented the client for an additional eighteen months on the probation violation matter. He traveled to Duval County for numerous hearings, and provided beneficial services to the client, successfully preventing the client's incarceration for the violation of probation.

I. By reason of the foregoing, respondent has violated R. Regulating Fla. Bar 4-1.5(e)(1) (duty to communicate basis or rate of fee or costs to client).

J. The bar voluntarily agrees to dismiss the following Rules Regulating The Florida Bar that were charged in the Complaint: 5-1.1(a)(1) and 5-1.1(b).

### III. RECOMMENDATIONS AS TO GUILT

I recommend that the respondent be found guilty of violating the following Rules Regulating The Florida Bar:

As to The Florida Bar File No. 2019-50,255 (17E): Rule 4-1.5(e)(1) (duty to communicate basis or rate of fee or costs to client).

### IV. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Before recommending discipline under R. Regulating Fla. Bar 37.6(m)(2)(D), I considered the following personal history of respondent:

Age: 59

Date admitted to the Bar: June 27, 1994

Prior Discipline: In Case No. SC2022-1211, respondent received a public reprimand for belatedly responding to letters of inquiry from the bar; and 3.2(b)(9) substantial experience in the practice of law. Respondent was admitted to The Florida Bar on June 27, 1994.

V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

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

4.1 Failure to Preserve the Client's Property

4.1(c) Public reprimand is appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.

I find the following aggravating factors:

- a. 3.2(b)(1) prior disciplinary offense: In Case No. SC2022-1211, respondent received a public reprimand for belatedly responding to letters of inquiry from the bar; and
- b. 3.2(b)(9) substantial experience in the practice of law.

Respondent was admitted to The Florida Bar on June 27, 1994.

I find the following mitigating factors:

- a. 3.3(b)(4) timely good faith effort to make restitution or to rectify the consequences of the misconduct;
- b. 3.3(b)(5) full and free disclosure to the bar or cooperative attitude toward the proceedings; and
- c. 3.3(b)(12) remorse.

## VI. CASE LAW

I considered the following case law before recommending discipline:

In The Florida Bar v. Gaskell, Case No. SC2022-0948, 2023 WL 2922632 (Fla. April 13, 2023). The Court approved the referee's recommendation accepting the parties' joint stipulation finding a lawyer, who failed to provide two clients with a written accounting of the settlement funds he received on their behalf, failed to account for the work that he performed, and failed to get written authorization from the clients allowing him to apply the settlement funds to the clients' unpaid legal fees and costs, violated R. Regulating Fla. Bar 4-1.4(a) (communication), 5-1.1(b) (application of trust funds or property to a specific purpose and 5-1.1(e) (accounting). The lawyer received a public reprimand by publication, and was ordered to attend fee arbitration, a trust accounting workshop, and to

complete an evaluation with Florida Lawyers Assistance, Inc. The lawyer's prior disciplinary history included an admonishment and a public reprimand.

In The Florida Bar v. Brunner, No. SC2014-1592 (Fla. March 29, 2014) (unpublished disposition) (Fla. 2015), [TFB File No. 2012-11,105(20D)], the court approved a conditional plea for consent judgment, which required the lawyer to receive a written admonishment from the referee, participate in a law office management program and pay restitution to the client for violating R. Regulating Fla. Bar 4-1.5(e) (duty to communicate basis or rate of fee or costs to client); Rule 4-1.15 (safekeeping property); and Rule 5-1.2 (trust accounting records and procedures). The lawyer had no prior discipline.

In one matter, a client transferred their unused advance fees for legal services that were previously remitted to their former counsel over to the lawyer's trust account. The lawyer failed to sign a fee agreement with the new client, failed to notify the new client that the newly transferred advanced fees would be treated as earned upon receipt, that the advanced fees would not be maintained in the lawyer's trust account, and that the advance fees would be deemed as nonrefundable and earned upon receipt. In a second matter, the lawyer failed to keep proper accounting records and communicate the basis or rate of her fee to the client.

## VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

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

- A. Public reprimand administered by publication in the *Southern Reporter*.
- B. Respondent must attend Ethics School, in person, where scheduled by the bar within 6 months of the order approving this consent judgment and pay associated fees totaling \$750.00 before attendance.

As part of the instant consent judgement, respondent agreed to reimburse \$10,000.00 of the previously paid fee to Elda Diaz, the client's mother. Respondent shall remit the reimbursement to Elda Diaz within 30 days of the entry of the order of the Supreme Court of Florida approving this conditional guilty plea for consent judgment, as noted in paragraph 5 of the Conditional Guilty Plea for Consent Judgment. Respondent must provide verifiable proof of payment to the bar no later than 60 days after the disbursement of the funds. Verifiable proof of payment shall consist of a copy (front and back) of the negotiated check or a copy of the check and certified return receipt. Failure to provide verifiable proof of payment to the bar will result in respondent being deemed a delinquent member of The Florida Bar. Failure to comply with this condition within the time specified will result in respondent being deemed a delinquent member under Rule 1-3.6(d) of R. Regulating Fla. Bar.

- C. Payment of the disciplinary costs.

## 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 Fee    | \$1,250.00     |
| Audit Costs           | \$332.50       |
| Court Reporters' Fees | \$595.00       |
| Investigative Costs   | \$148.50       |
| <br>TOTAL             | <br>\$2,326.00 |

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 \_\_16th\_\_ day of \_\_\_\_\_May\_\_\_\_\_, 2025.

/s/ Marcia Del Rey  
Honorable Marcia Del Rey, Referee  
175 NW 1st Ave.  
Miami, FL 33128-1835

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

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