

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED
JOHN A. TOMASINO
AUG 22 2014
CLERK, SUPREME COURT
BY _____

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC14-954

v.

The Florida Bar File
No. 2013-50,354(17D)FES

MICHAEL RALPH CASEY,
Respondent.

REPORT OF 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 May 19, 2014, The Florida Bar filed its Petition for Emergency Suspension against respondent. On May 28, 2014 the Supreme Court of Florida entered an order suspending respondent on an emergency basis. Thereafter, respondent failed to respond in any way to the Petition for Emergency Suspension and The Florida Bar filed a Motion for Default. Such motion was granted by order dated July 16, 2014. On August 18, 2014, a final hearing was held in this matter. 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

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.

Narrative Summary Of Case.

A. Respondent had been under indictment for and awaiting trial in U.S. District Court, Southern District of Florida, for his alleged involvement in an investment scheme that defrauded hundreds of investors worldwide out of approximately \$20 million.

B. Respondent had been the president and in-house attorney for the Fort Lauderdale-based company Commodities Online, LLC, which sold participation interests promising profits which never existed.

C. The company subsequently was shut down by civil court order obtained by the Securities and Exchange Commission.

D. In September 2012, respondent was charged with conspiracy to commit mail and wire fraud and mail and wire fraud.

E. Respondent was arrested and released on bond pending his trial in Miami, Florida.

F. On April 29, 2014, respondent failed to appear for a court hearing and a bench warrant was issued for his arrest by the U.S. District Court, Southern District of Florida.

G. The FBI Wanted Poster indicates that the respondent “should be considered armed and dangerous”.

III. RECOMMENDATIONS AS TO GUILT

I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar: 3-4.4 Criminal Misconduct; and 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.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

5.11 Disbarment is appropriate when:

(a) lawyer is convicted of a felony under applicable law; or

(b) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or

(c) a lawyer engages in the sale, distribution or importation of controlled substances; or

(d) a lawyer engages in the intentional killing of another; or

(e) a lawyer attempts or conspires or solicits another to commit any of the offenses listed in sections (a)-(d); or

(f) 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.

V. CASE LAW

I considered the following case law prior to recommending discipline:

Where an attorney is convicted of mail fraud and/or wire fraud, disbarment is the presumed sanction. See The Florida Bar v. Dougherty, 769 So. 2d 1027 (Fla. 2000); The Florida Bar v. Lechtner, 666 So. 2d 892 (Fla. 1996); The Florida Bar v. Bustamante, 662 So. 2d 687 (Fla. 1995).

While respondent has not yet been convicted of wire/mail fraud, his complete failure to respond acts as his admission to the charges as set forth in the Emergency Suspension petition. Further, his failure to appear in court and therefore being declared a fugitive of justice calls for his disbarment.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that respondent be found guilty of misconduct justifying disciplinary measures, and that respondent be disbarred with leave to reapply in 5 years. Respondent shall pay The Florida Bar's costs in this matter.

VII. PERSONAL HISTORY, PAST DISCIPLINARY RECORD

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

Personal History of Respondent:

Age: 67

Date admitted to the Bar: November 19,1976

Aggravating Factors:

9.22(b) dishonest or selfish motive;

9.22(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;

Prior Discipline: None

Mitigating Factors:

9.32(a) lack of prior disciplinary proceedings.

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
Bar Counsel Travel Costs	69.17
Court Reporter Costs	<u>170.00</u>
TOTAL	\$1,489.17

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 19 day of August, 2014.


Peter D. Blanc, Referee
Palm Beach County Courthouse
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West Palm Beach, FL 33401

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