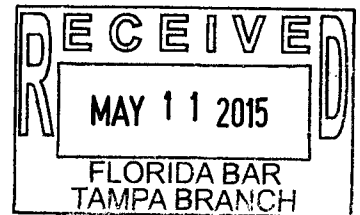


IN THE SUPREME COURT OF FLORIDA
(Before a Referee)



THE FLORIDA BAR,

Complainant,

v.

BURT ALVAREZ,

Respondent.

Supreme Court Case
No. SC15-34

The Florida Bar File Nos.
2013-10,426 (13E) and
2014-10,035 (13E)

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS

On January 8, 2015, The Florida Bar filed its Complaint against Respondent.

I was duly appointed to serve as Referee by Order dated January 21, 2015. On March 17, 2015, at the Pretrial Conference required by Rule 3-7.6(c), Rules Regulating The Florida Bar, I granted The Florida Bar's Motion for Default. On April 20, 2015, I conducted an evidentiary hearing to determine a recommended sanction.

The Florida Bar was represented by Troy Matthew Lovell. Respondent was pro se and did not participate in these proceedings.

All filings received by me are being forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

Jurisdictional Statement. Respondent was admitted to The Florida Bar on April 25, 1988, and is subject to the jurisdiction of the Supreme Court of Florida.

Narrative Summary of Case. Respondent was defaulted in this proceeding. As a result, I have accepted the allegations of the Complaint as true.

Beginning around April 2007, Respondent represented Elizabeth Hernandez on personal injury claims related to a slip-and-fall incident. In May 2011, the case settled for approximately \$30,000. The settlement funds were delivered to Respondent to be held in trust. The funds were subject to liens from Medicare and/or Medicaid, but Respondent failed to take action to resolve or quantify those liens, resulting in the funds being held in trust for years. Respondent also failed to take action to pay medical providers from the settlement proceeds.

In addition to his failure to act diligently to protect the rights of Hernandez and his failure to promptly deliver the settlement funds for their intended purpose, Respondent failed to maintain proper trust account records in connection with his trust account. Specifically, Respondent failed to maintain a receipts and disbursements journal, failed to perform monthly reconciliations, failed to maintain individual client and matter ledger cards, and failed to retain copies of all deposits and cancelled checks. On several occasions during the representation of

Hernandez, Respondent issued checks for funds which had not yet been deposited into trust.

Finally, Respondent failed to respond to the grievance filed by Hernandez. The Florida Bar properly notified Respondent of the grievance and his obligation to respond, but Respondent did not respond to the Bar's initial inquiries. Later, when the matter was considered by a grievance committee, Respondent did provide trust account records, but never provided any explanation, refutation, or admission regarding his alleged misconduct.

III. RECOMMENDATIONS AS TO GUILT.

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

- a. Rule 4-1.3 (lack of diligence);
- b. Rule 4-1.15 (failure to abide by trust account rules);
- c. Rule 4-8.4(g) (failure to respond to Bar inquiry);
- d. Rule 5-1.1 (improper handling of property held in trust); and,
- e. Rule 5-1.2 (failure to maintain required trust account records).

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered Standard 4.41(a) prior to recommending discipline:

Disbarment is appropriate when a lawyer abandons the practice and causes serious or potentially serious injury to a client[.]

V. CASE LAW

I considered the following case law prior to recommending discipline:

Florida Bar v. Valentine-Miller, 974 So.2d 333 (Fla. 2008).

VI. RECOMMENDED DISCIPLINE

I recommend that Respondent be disbarred.

VII. PERSONAL HISTORY, PAST DISCIPLINARY RECORD

Prior to recommending discipline, I considered the following:

Personal History of Respondent:

Age: 54

Date admitted to the Bar: April 23, 1988

Prior Discipline: None

VIII. COSTS

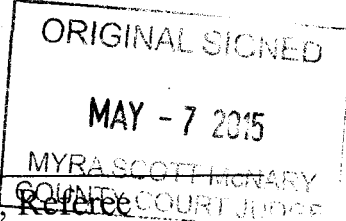
I find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs pursuant to Rule 3-7.6(q)(1)(I)	\$ 1,250.00
Investigative Costs	55.70
Bar Counsel Costs	45.45
Court Reporter Fees	<u>170.00</u>
TOTAL:	<u>\$ 1,521.15</u>

I recommend that the above costs be charged to Respondent and that interest at the statutory rate accrue thereon, and that Respondent be deemed delinquent if

costs are not paid within 30 days of the final Order, unless an extension is granted by The Florida Bar.

Dated this _____ day of _____, 2015.

Myra Scott-McNary,  Reference

Original To:

The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, 500 South Duval Street, Tallahassee, FL 32399-1927.

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