

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

STEVEN GARY SHAW,

Respondent.

Supreme Court Case
No. SC19-375

The Florida Bar File
No. 2019-00,184(2B)

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 March 8, 2019, The Florida Bar filed a Reciprocal Discipline Complaint against respondent in these proceedings. A case management conference was held on April 30, 2019, where the possibility for a stipulation was discussed. All of the aforementioned pleadings, responses thereto, exhibits received in evidence, and this report constitute the record in this case and are forwarded to the Supreme Court of Florida. On August 2, 2019, a Final Hearing regarding a recommended discipline was conducted by the referee, the Honorable John C. Cooper. During the Final Hearing, respondent expressed remorse and stated that the complaining

client in this case, Ms. Dalvesco-Keener, was his first and only family law client and, in retrospect, he should never have agreed to take a family law case.

Respondent's entire background was in transactional litigation and in tax law. Further, when respondent listed that he was admitted to the practice of law in federal court, he did so while still in law school and thought that, since he was admitted to appear before the United States Tax Court, he assumed that he was admitted in the other federal courts. Respondent freely admitted that his naivety was no excuse for his lack of candor on his Florida Bar profile.

II. FINDINGS OF FACT

A. 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. In addition to membership in The Florida Bar, respondent was licensed to practice law in the State of Illinois, admitted on November 23, 2010, subject to the jurisdiction of the Attorney Registration and Disciplinary Commission ("ARDC") and the Supreme Court of Illinois.

B. Narrative Summary Of Case. This is a reciprocal discipline action, based on the Petition to Impose Discipline on Consent and the Order accepting the Petition, dated March 14, 2014, which imposed a 90-day suspension.

1. On or about May 23, 2011, respondent agreed to represent Rebecca Dalvesco-Keener ("Ms. Dalvesco-Keener") in a pending dissolution of marriage case in the Circuit Court of Cook County, and to charge her an hourly rate of \$100 per hour.

2. In July 2011, Ms. Dalvesco-Keener agreed to increase the hourly rate to \$175 per hour for future services.

3. In August 2011, respondent presented Ms. Dalvesco-Keener with a bill that improperly charged her \$175 per hour for all activities performed by respondent from the beginning of representation in May 23, 2011, rather than at the lower rate respondent originally agreed to charge.

4. Respondent improperly charged approximately 26.5 hours at the hourly rate of \$175 instead of \$100.

5. In August 2011, Ms. Dalvesco-Keener submitted a complaint against respondent to the ARDC and the Administrator initiated an investigation.

6. On or about January 27, 2012, respondent sent the Administrator a purported attorney engagement letter dated May 23, 2011 to support his claim that his hourly rate had always been \$175.00.

7. Respondent knew that the purported May 23, 2011 letter was false because he backdated it from the time that Ms. Dalvesco-Keener had signed it on or about July 21, 2011.

8. Respondent also knew that the hourly rate stated in the attorney engagement letter was false, because the hourly rate Ms. Dalvesco-Keener agreed to from May 23, 2011 to July 2011 had been \$100.00 per hour.

9. Respondent provided the Administrator with timekeeping records that falsely stated the hourly rates and payments received from Ms. Dalvesco-Keener.

10. Respondent was admitted to the Florida Bar on November 24, 2008 but is not currently authorized to practice law in the state of Florida, where he is registered as inactive.

11. The Florida Bar website lists basic information about an attorney, and additional information can be entered by the attorney.

12. On respondent's Florida Bar profile, respondent represented that he had been admitted to practice in the following federal courts: U.S. Tax Court; U.S. Court of Appeals for the Seventh Circuit; U.S. District Court, Middle District of Florida; U.S. District Court, Northern District of Florida; U.S. District Court Southern District of Florida; U.S. District Court, Central District of Illinois; U.S. District Court Northern District of Illinois; U.S. District Court, Southern District of Illinois; Florida Middle District Bankruptcy Court; Florida Northern District Bankruptcy Court; Florida Southern District Bankruptcy Court; Illinois Central District Bankruptcy Court; Illinois Northern District Bankruptcy Court; and the Illinois Southern District Bankruptcy Court.

13. Respondent knew his statements regarding his admission to practice in the above federal courts were false, because respondent had not been admitted to practice in any federal court.

14. By reason of the foregoing, respondent was found to have violated the following Illinois Rules of Professional Conduct (2010): 8.1 knowingly making false statements in connection with a disciplinary matter; 7.1 making a false or misleading communication about his admissions to practice in certain federal courts; and 8.4(c) engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

III. RECOMMENDATIONS AS TO GUILT.

I find that by operation of Rule 3-4.6, Rules Regulating The Florida Bar, the Petition and Order from the Supreme Court of Illinois shall be considered as conclusive proof of such misconduct in this disciplinary proceeding.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

4.6 Lack of Candor

4.62 Suspension is appropriate when a lawyer knowingly deceives a client and causes injury or potential injury to the client.

6.1 False Statements, Fraud, and Misrepresentation

6.12 Suspension is appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld and takes no remedial action.

7.0 Violations of Other Duties Owed as a Professional

7.2 Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Adler, 126 So.3d 244 (Fla. 2013) – The Supreme Court held that a 91-day suspension was the appropriate sanction for attorney's intentional misrepresentation of his finances to an apartment board in connection with his purchase of a cooperative apartment seeking, from law firm that employed him, a letter containing false information about his position and financial status to submit to apartment board, and his failure to execute required client settlement statements; attorney's conduct was deliberately deceptive.

The Florida Bar v. Head, 84 So.3d 292 (Fla. 2012) – The Supreme Court held that a 91-day suspension was appropriate where a respondent, in the course of representing commercial landlord in eviction proceeding against tenant of stating in an affidavit that he allowed tenant's employee to have access to tenant's business records when in fact, he did not do so, and in using a fraudulent case number in a letter he created and posted on premises indicating that a complaint for distress for rent had been filed, when in fact such proceedings had not been filed violated bar rule prohibiting attorneys from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

The Florida Bar v. Russell-Love, 135 So.3d 1034 (Fla. 2014) – The Supreme Court held that a 91-day suspension was the appropriate discipline where respondent's misrepresentations in the course of representing immigration client violated bar rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; attorney admitted that she misrepresented that she was attorney for entity petitioning on client's behalf, misrepresented that such entity was petitioning for visa on behalf of client, and printed name of employee of entity on immigration forms, and by signing amended form, declared that information provided on form was true and correct.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

- A. 91-day suspension; and
- B. payment of The Florida Bar's costs in these proceedings.

Respondent will eliminate all indicia of respondent's status as an attorney on social media, telephone listings, stationery, checks, business cards office signs or any other indicia of respondent's status as an attorney, whatsoever. Respondent will no longer hold himself out as a licensed attorney.

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: 43

Date admitted to the Bar: November 24, 2008

Aggravating Factors:

None.

Mitigating Factors:

- 9.32(a) absence of a prior disciplinary record;
- 9.32(d) timely good faith effort to make restitution or to rectify consequences of misconduct;

- 9.32(e) full and free disclosure to disciplinary board or
cooperative attitude toward proceedings;
9.32(j) interim rehabilitation;
9.32(k) imposition of other penalties or sanctions; and
9.32(l) remorse.

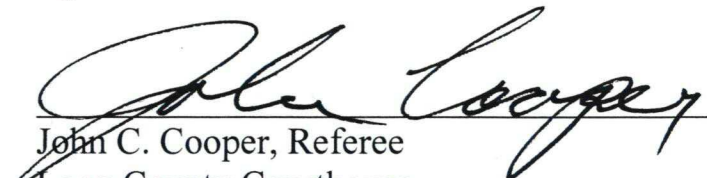
VIII. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD
BE TAXED

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

Administrative Fee	\$1,250.00
Court Reporters' Fees	130.00
TOTAL	\$1,380.00

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 27th day of August, 2019.


John C. Cooper, Referee
Leon County Courthouse
301 South Monroe Street, Room 356-L
Tallahassee, Florida 32301-1861

Original to:

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