

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
  
Complainant,

Supreme Court Case  
No. SC15-1573

v.

The Florida Bar File  
No. 2015-50,867(17A)FES

HORECIA INGRAM WALKER,  
  
Respondent.

FILED  
JOHN A. TOMASINO  
DEC 28 2015

CLERK, SUPREME COURT  
BY

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 August 27, 2015, The Florida Bar ("Complainant") filed its Petition for Emergency Suspension in Supreme Court Case No. SC15-1573 against Horecia Ingram Walker ("Respondent") in the Supreme Court of Florida. On September 1, 2015, The Florida Supreme Court approved the Bar's Petition and suspended the Respondent from the practice of law until further Order of the Court. On September 1, 2015, the Florida Supreme Court entered an Order designating the Honorable Jeffrey J. Colbath, Chief Judge for the Fifteenth Judicial Circuit, to appoint a Referee for the Court. On September 4, 2015, Judge Colbath entered an

Order designating and appointing the Honorable John S. Kastrenakes as Referee in the matter of *The Florida Bar v. Horecia Ingram Walker*, Supreme Court Case No. SC15-1573. A copy of said Order was served on the Respondent *via* e-mail at hwalker.pa@gmail.com. On September 9, 2015, Referee John S. Kastrenakes entered an "Order Setting Status Conference," which was set for September 21, 2015 at 8:15 a.m. The "Order Setting Status Conference" Certificate of Service reflects that a copy of the order was served on September 9, 2015 on the Respondent *via* e-mail at hwalker.pa@gmail.com. The Respondent failed to attend the September 21, 2015 Status Conference.

Furthermore, Respondent failed to file an answer and any affirmative defenses to the Bar's Petition for Emergency Suspension as mandated by R. Regulating Fla. Bar 3-5.2 (a). On September 22, 2015 the Bar filed a Motion for Default. The Certificate of Service on the Motion for Default reflects that copies were served on September 22, 2015 to the Respondent at her record Florida Bar address of 14359 Miramar Pkwy., Suite #159, Miramar, FL 33027-4134 and by e-mail at hwalker.pa@gmail.com. The Motion for Default was granted by undersigned on September 24, 2015. The undersigned found the Respondent guilty of the Rules Regulating The Florida Bar as alleged in the Bar's Petition for Emergency Suspension. A copy of said Order was served on the respondent at her

record Florida Bar address of 14359 Miramar Pkwy., Suite #159, Miramar, FL 33027-4134 and by e-mail at hwalker.pa@gmail.com.

On September 28, 2015, the undersigned entered an "Order on Case Management Conference" scheduling the Sanction/Discipline Hearing for November 16, 2015 at 9:00 a.m. A copy of the "Order on Case Management Conference" was served on the Respondent at her record Florida Bar address of 14359 Miramar Pkwy., Suite #159, Miramar, FL 33027-4134 and by e-mail at hwalker.pa@gmail.com. A Sanction Hearing on the cause was held on November 16, 2015. The Respondent was provided notice of the Sanction Hearing *via* e-mail and by regular U.S. mail at her record Florida Bar address and at her last known address. Despite having been provided notice of the Sanction Hearing, Respondent failed to appear. 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.

During the course of these proceedings, Respondent failed to appear at all scheduled hearings and The Florida Bar was represented by Roberto Mendez, Esq.

## **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.

### **B. Narrative Summary of Case.**

1. In or about August of 2014, Ms. Jennifer Francis retained Respondent to negotiate a settlement of a Final Judgment in the case of *Westport Recovery Corporation v. Jennifer M. Francis, a/k/a Jennifer Francis*, Case No. 97-8027 CC-23(02) pending in the County Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida.

2. The judgment creditor, Westport Recovery Corporation ("Westport Recovery"), demanded payment in the full judgment amount of \$19,549.77 by November 7, 2014.

3. Respondent suggested that Ms. Francis deposit the settlement funds into Respondent's trust account and Respondent would remit such funds to Westport Recovery to satisfy the judgment.

4. Respondent's bank account number #5057 was titled "Horecia Walker Sole Prop DBA Horecia I. Walker" and was not clearly labeled and designated as a trust account.

5. On October 24, 2104, Ms. Francis remitted to Respondent three (3) separate checks totaling \$12,000.00, which Respondent deposited into Respondent's account number #5057.

6. On October 28, 2014, a fourth check from Ms. Francis in the amount of \$3,000.00 was also deposited into Respondent's account #5057.

7. On October 31, 2014, Respondent withdrew \$8,060.00 from account #5057, and thereafter remitted a cashier's check in the amount of \$8,000.00 payable to Westport Recovery on behalf of Ms. Francis.

8. Respondent's bank account should have reflected that Respondent was holding a total of \$6,940.00 on behalf of Ms. Francis after the October 31, 2014 withdrawal of \$8,060.00.

9. However, the bank balance in account #5057 was \$6,642.44 as of October 31, 2014.

10. On November 3, 2014, a check from Marcus D. Spence in the amount of \$5,000.00 was deposited into account #5057 on behalf of Ms. Francis.

11. After such deposit, Respondent's bank account should have reflected that Respondent was holding \$11,940.00 on behalf of Ms. Francis.

12. Thirteen (13) separate on-line banking transfers to account #1622 entitled "Horecia Ingram Walker Garnet Aris" totaling \$3,730.00 were disbursed from account #5057 in November 2014.

13. Debit card transactions which totaled \$2,809.83 were disbursed from account #5057 during November 2014.

14. Such transactions were made to pay Respondent's personal expenses to ExxonMobil, Macy's, Target, certain restaurants and other expenses unrelated to Ms. Francis' case (emphasis added).

15. The bank balance in account #5057 was \$5,588.86 as of November 30, 2014.

16. In December of 2014, twelve (12) separate online banking transfers totaling \$3,130.00 were disbursed to account #1622 entitled "Horecia Ingram Walker Garnet Aris" from account #5057.

17. Debit card transactions totaling \$2,332.79 were disbursed from account #5057 in December 2014.

18. Such transactions were made to pay Respondent's personal expenses to Publix, Walgreens, Dolphin Pediatric, State Farm, numerous restaurants and other expenses not related to Ms. Francis' case (emphasis added).

19. The bank balance in account #5057 was \$1,412.32 as of December 31, 2014.

20. Finally, three (3) separate on-line banking transfers totaling \$1,261.00 were made to account #1622 entitled "Horecia Ingram Walker Garnet Aris" and

debit card transaction totaling \$1,764.68 were disbursed from account #5057 in January 2015.

21. The bank balance in account #5057 was overdrawn in the amount of (-\$78.27) as of January 31, 2015.

22. Respondent had a fiduciary duty to exercise reasonable skill and ordinary diligence in holding and delivering possession of the escrowed funds. Respondent should have been holding a total of \$11,940.00 on behalf of Ms. Francis. Respondent should have remitted the \$11,940.00 to counsel for Westport Recovery Corporation.

23. Respondent misappropriated \$11,940.00 of Ms. Francis' funds that should have been held in trust.

24. Further, despite having failed to remit the funds to Westport Recovery as required, Respondent assured Ms. Francis that she had, in fact, remitted all the funds but one of the checks had been "lost."

25. Respondent provided Ms. Francis a document entitled "Satisfaction of Judgment" which stated that Westport Recovery Corporation was paid in full and that Ms. Francis did not owe Westport Recovery Corporation any more money on the judgment executed on July 31, 1997. The Respondent assured Ms. Francis that the "Satisfaction of Judgment" would be recorded on her behalf (Exhibit "J" to Jennifer Francis' Bar Complaint filed on February 4, 2015.)

26. The "Satisfaction of Judgment" stated as follows:

"This document is signed by Debra Greenberg, Esq., {as agent of Plaintiff} Westport Recovery on December 3, 2014."

"Plaintiff, Westport Recovery Corporation, to acknowledge full payment of the judgment signed by the Judge on July 31, 1997, Plaintiff agrees that: Defendant, Jennifer Francis, does not owe the Plaintiff any more monies for the judgment."

"Judgment as recorded in OR BK 17739, PG Miami Dade County is hereby satisfied."

In truth and in fact, Respondent misappropriated the funds, did not pay the judgment in-full as requested and, in order to deceive Ms. Francis and to cover her misappropriation of Ms. Francis' funds, Respondent fraudulently created the "Satisfaction of Judgment" (a legal document) which was allegedly prepared and executed by Debra Greenberg, Esquire, counsel for Westport Recovery Corporation. Debra Greenberg, Esq. testified that she did not prepare or execute, and did not authorize anyone to prepare, the "Satisfaction of Judgment" that Ms. Francis produced to the Bar marked as Exhibit "J" to The Florida Bar Complaint filed on February 4, 2015. Debra Greenberg further testified that it was her belief that her signature on the "Satisfaction of Judgment" was prepared by "cut, copy and paste" text/pictures from a letter she had previously prepared related to the



collections matter. Debra Greenberg also testified that the Clerk of Court recording number "OR BK 17739" was not correct.

27. Because Respondent misappropriated the funds entrusted by Ms. Francis to her, Ms. Francis was forced to remit \$11,321.60 from the proceeds of the sale of another residential property to Westport Recovery in order to satisfy the outstanding judgment.

28. Ms. Francis also testified that she paid the Respondent \$2,500.00 in legal fees related to this matter.

29. The Bar's Fort Lauderdale Branch Staff Auditor performed a compliance audit of the Respondent's trust account records for the period of August 1, 2014 through March 31, 2015. The compliance audit consists of an examination of the trust account by verification of the accounting records and supporting documents to determine whether or not the records and procedures complied with Chapter 5 of the Rules Regulating The Florida Bar. The primary focus of the compliance audit was the examination of the financial transactions relating to the subject matters noted in the complaint. The compliance audit related to The Florida Bar file number 2015-50,867(17A). The bank account examined was the "Horecia Walker Sole Prop DBA Horecia I. Walker" account number ending with #5057 at Bank of America.

30. The audit revealed that Respondent did not maintain minimum trust accounting records and procedures in that:

- a. Respondent did not maintain all bank statements;
- b. Respondent did not maintain all deposit slips;
- c. Respondent did not maintain all cancelled checks;
- d. Respondent did not maintain other documentary support for all disbursements and transfers from the trust account;
- e. Respondent did not maintain a cash receipts and disbursements journal;
- f. Respondent did not maintain client ledgers;
- g. Respondent did not maintain monthly bank reconciliations;
- h. Monthly comparisons of trust liabilities to reconciled bank balances were not prepared.

31. On February 11, 2015, the Bar sent Respondent a letter by regular U.S. Mail to Respondent's record Florida Bar address advising of the complaint in this case and requested Respondent to respond in writing and to attach any supporting documents by February 27, 2015.

32. Respondent failed to respond to The Florida Bar as requested in the letter of February 11, 2015.

33. On March 27, 2015, the Bar sent Respondent another letter, by regular U.S. Mail to Respondent's record Florida Bar address, advising of a complaint in this case and requested Respondent to respond in writing and to attach any supporting documents by April 6, 2015.

34. Respondent failed to respond to The Florida Bar as requested in the letter of March 27, 2015.

35. On April 30, 2015, the Bar sent the Respondent another letter, *via* e-mail at her record Florida Bar e-mail address of hwalker.pa@gmail.com, and by regular U.S. Mail to Respondent's record Florida Bar address and at P.O. Box 279152, Miramar, FL 33027, advising of a complaint in this case and Respondent was requested to respond in writing and to attach any supporting documents by May 11, 2015.

36. Respondent failed to respond to The Florida Bar as requested in the letter of April 30, 2015.

37. On or about June 10, 2015 and June 22, 2015, The Florida Bar served Respondent by electronic mail with a subpoena requiring production of trust account records for the period of August 1, 2014 through May 31, 2015.

38. Respondent did not provide any of the requested records from the subpoena, nor provided any response to explain the failure to respond to the said subpoena.

39. On June 17, 2015, The Florida Bar filed a Petition for Contempt and Order to Show Cause with the Florida Supreme Court styled *The Florida Bar v. Horecia Ingram Walker*, Supreme Court of Florida Case No. SC15-1118 (Lower tribunal No(s).The Florida Bar File No. 2015-51,265(17A)OSC). The Bar attached a copy of the Grievance Committee Finding of Non-Compliance and Failure to Respond to Official Bar Inquiry and Contempt concerning The Florida Bar File No. 2014-51,349(17A) and a copy of the Grievance Committee Finding of Non-Compliance and Failure to Respond to Official Bar Inquiry and Contempt concerning The Florida Bar File No. 2015-50,867(17A). The Florida Bar File No. 2015-50,867(17A) relates to this matter. On June 19, 2015, The Florida Supreme Court issued an order commanding the Respondent to show cause on or before July 6, 2015 why she should not be held in contempt of the Court or other discipline imposed for the reasons set forth in The Florida Bar's Petition.

40. On August 27, 2015, The Florida Bar filed a Petition for Emergency Suspension against Respondent. Per Rule 3-7.2, "[a] petition for emergency suspension shall also constitute a formal complaint. The Respondent shall have 20 days after docketing by the Supreme Court of Florida of its order granting the Bar's Petition for Emergency Suspension in which to file an answer and any affirmative defenses to the Bar's petition.

41. On September 1, 2015, the Supreme Court issued an Order approving the Emergency Suspension and suspending Respondent from the practice of law until further order.

42. On September 16, 2015, the Florida Supreme Court granted The Florida Bar's Petition for Contempt and Order to Show Cause in Case No. SC15-1118 and found respondent in contempt of the Court.

43. Respondent failed to respond to the Petition for Emergency Suspension, and on September 22, 2015, the Bar filed its Motion for Default.

44. On September 24, 2015, the undersigned granted the Bar's Motion for Default, finding the Respondent guilty of the Rules Regulating The Florida Bar as alleged in the Bar's Petition for Emergency Suspension.

45. By failing to respond to the Petition for Emergency Suspension Respondent admits all allegations in the Petition.

46. A Final Hearing was held on November 16, 2015 to determine the appropriate discipline to be imposed against Respondent.

47. Ms. Glenda Gaines also testified at the Sanction Hearing related to *The Florida Bar v. Horecia Ingram Walker*, Supreme Court of Florida Case No. SC15-1118 (Lower tribunal No(s): The Florida Bar File No. 2015-51,265(17A)OSC). Ms. Gaines testified that on June 4, 2014, an Inquiry/ Complaint Form was filed with The Florida Bar. The complainant alleged that the

Respondent was paid a significant sum of money in a criminal matter to file a post-conviction appeal; however, the Respondent did not do any work relating to filing the appeal and never filed an appeal as she agreed. In addition, the Respondent asserted that she had refunded a portion of the retainer to Ms. Gaines and the Bar requested documentary proof of same.

### **III. Recommendations as to Guilt.**

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

1.     **3-4.2** [Violation of the Rule of Professional Conduct as adopted by the rules governing The Florida Bar is a cause for discipline.];
2.     **3-4.3** [... The commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed within or outside the State of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline.];
3.     **4-1.15** [A lawyer shall comply with The Florida Bar Rules Regulating Trust Accounts.];
4.     **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.];

5. **4-8.4(c)** [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule.];

6. **4-8.4(d)** [A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.];

7. **4-8.4(g)** [A lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency, as defined elsewhere in these rules, when bar counsel or the agency is conducting an investigation into the lawyer's conduct. A written response shall be made: (1) within 15 days of the date of the initial written investigative inquiry by bar counsel, grievance committee, or board

of governors; (2) within 10 days of the date of any follow-up written investigative inquiries by bar counsel, grievance committee, or board of governors; (3) within the time stated in any subpoena issued under these Rules Regulating The Florida Bar (without additional time allowed for mailing). Except as stated otherwise herein or in the applicable rules, all times for response shall be calculated as provided elsewhere in these Rules Regulating The Florida Bar and may be extended or shortened by bar counsel or the disciplinary agency making the official inquiry upon good cause shown. Failure to respond to an official inquiry with no good cause shown may be a matter of contempt and processed in accordance with Rule 3-7.11(f) of the Rules Regulating The Florida Bar.];

8. **5-1.1(a)(1)** [A lawyer shall hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in a lawyer's possession in connection with a representation. All funds, including advances for fees, costs, and expenses, shall be kept in a separate bank or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person and clearly labeled and designated as a trust account. A lawyer may maintain funds belonging to the lawyer in the trust account in an amount no more than is reasonably sufficient to pay bank charges relating to the trust account.];



9. **5-1.1(b)** [Money or other property entrusted to an attorney for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose. Money and other property of clients coming into the hands of an attorney are not subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over such property upon demand shall be deemed a conversion.];

10. **5-1.2(b)(2)** [The following are the minimum trust accounting records that must be maintained: original or clearly legible copies of deposit slips if the copies include all data on the originals and, in the case of currency or coin, an additional cash receipts book, clearly identifying the date and source of all trust funds received and the client or matter for which the funds were received.];

11. **5-1.2(b)(3)** [The following are the minimum trust accounting records that must be maintained: original canceled checks or clearly legible copies of original canceled checks for all funds disbursed from the trust account, all of which must: (A) be numbered consecutively; (B) include all endorsements and all other data and tracking information; and (C) clearly identify the client or case by number or name in the memo area of the check.];

12. **5-1.2(b)(4)** [The following are the minimum trust accounting records that must be maintained: other documentary support for all disbursements and transfers from the trust account including records of all electronic transfers from

client trust accounts, including: (A) the name of the person authorizing the transfer; (B) the name of the recipient; (C) confirmation from the banking institution confirming the number of the trust account from which money is withdrawn; and (D) the date and time the transfer was completed.];

13. **5-1.2(b)(6)** [The following are the minimum trust accounting records that must be maintained: a separate cash receipts and disbursements journal, including columns for receipts, disbursements, transfers, and the account balance, and containing at least: (A) the identification of the client or matter for which the funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred.];

14. **5-1.2(b)(7)** [The following are the minimum trust accounting records that must be maintained: a separate file or ledger with an individual card or page for each client or matter, showing all individual receipts, disbursements, or transfers and any unexpended balance, and containing: (A) the identification of the client or matter for which trust funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred.];

15. **5-1.2(b)(8)** [The following are the minimum trust accounting records that must be maintained: all bank or savings and loan association statements for all trust accounts.];

16. **5-1.2(d)(1)(A)** [The minimum trust accounting procedures that must be followed by all members of The Florida Bar (when a choice of laws analysis indicates that the laws of Florida apply) who receive or disburse trust money or property are as follows: The lawyer is required to make monthly: (A) reconciliations of all trust bank or savings and loan association accounts, disclosing the balance per bank, deposits in transit, outstanding checks identified by date and check number, and any other items necessary to reconcile the balance per bank with the balance per the checkbook and the cash receipts and disbursements journal.];

17. **5-1.2(d)(1)(B)** [The minimum trust accounting procedures that must be followed by all members of The Florida Bar (when a choice of laws analysis indicates that the laws of Florida apply) who receive or disburse trust money or property are as follows: (1) The lawyer is required to make monthly: a comparison between the total of the reconciled balances of all trust accounts and the total of the trust ledger cards or pages, together with specific descriptions of any differences between the 2 totals and reasons for the differences.]; and

18. **5-1.2(i)** [Failure of a member to timely produce trust accounting records will be considered as a matter of contempt and process in the manner provided in subdivision (d) and (f) of Rule 3-7.11, Rules Regulating The Florida Bar.].

**IV. Standards For Imposing Lawyer Sanctions.**

I considered the following Standards prior to recommending discipline:

4.11; Disbarment is appropriate when a lawyer intentionally or knowingly converts client property regardless of injury or potential injury.

4.41; Disbarment is appropriate when a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client.

4.61; Disbarment is appropriate when a lawyer knowingly or intentionally deceives a client with the intent to benefit the lawyer or another regardless of injury or potential injury to the client.

5.11; Disbarment is appropriate when 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.

6.21; Disbarment is appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and

causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

7.1; Disbarment is appropriate when a lawyer intentionally engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

**V. Applicable Case Law.**

I considered the following case law prior to recommending discipline:

*The Florida Bar v. Mirk*, 64 So. 3d 1180 (Fla. 2011); Disbarment was presumptive and appropriate sanction for misappropriation of client funds in a trust account. In addition, an attorney serving as an escrow agent has a fiduciary duty to exercise reasonable skill and ordinary diligence in holding and delivering possession of the escrowed property. *Florida Bar v. Hines*, 39 So. 3d 1196, 1200 (Fla. 2010).

As the Court stated in *Florida Bar v. Joy*, 679 So. 2d 1165, 1167 (Fla. 1996), an attorney serving as an escrow agent has a duty to act in the benefit of the parties to the transaction. In *Hines*, 39 So. 3d at 1200 (Fla. 2010) (quoting *Joy*, 679 So. 2d at 1167), the Court stated that “absent an express agreement, the law implies from the circumstances that an escrow agent undertakes ‘a legal obligation (1) to know the provisions and conditions of the principal agreement concerning

the escrowed property, and (2) to exercise reasonable skill and ordinary diligence in holding and delivering possession of the escrowed property (i.e., to disburse the escrowed funds) in strict accordance with the principals' agreement." (Emphasis added.)

In addition, Rule 5-1.1(b) requires an attorney to apply money held in trust for a specific purpose to only be applied for that purpose, and case law (*Hines* and *Joy*) requires an attorney serving as an escrow agent to exercise reasonable skill and ordinary diligence in delivering possession of the escrowed property. Thus, a lawyer receiving funds from a third party and depositing the funds into her escrow account has a duty to exercise reasonable diligence to determine for what purpose that third party had provided the funds, before disbursing the funds. Respondent violated these requirements.

In *Florida Bar v. Ward*, 599 So. 2d 650, 652 (Fla. 1992), the Court stated that lawyers have a unique fiduciary duty, individually and as a profession: "Never is an individual's trust in attorneys more evident, or more at risk, than when he places funds or property into the hands of his attorney." Respondent did not fulfill her responsibilities as an escrow agent with regard to Francis' funds. Instead, Respondent misappropriated and stole Ms. Francis' funds.

Respondent's conduct includes theft of client funds (criminal misconduct). Respondent's conduct includes false statements to a client, opposing counsel and

potentially a tribunal (fraudulent fabricated legal document Satisfaction of Judgment). Respondent's conduct includes forgery of opposing counsel's signature on a legal document. Respondent's conduct includes neglect of client matters, lack of legal skills, and lack of diligence. Respondent's conduct includes bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the Rules Regulating The Florida Bar or orders of the Florida Supreme Court.

Respondent's conduct as a whole indicates she is beyond redemption. Given Respondent's actions, I find that permanent disbarment is warranted.

**VI. Recommendation as to Disciplinary Measures to be Applied.**

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

- a. Permanent Disbarment;
- b. As a sanction, the Respondent is ordered to pay complainant, Jennifer Francis, restitution in the amount of \$11,321.60; the Respondent shall pay the full amount within thirty (30) days of the date of this Report. In the event of a default or delay in payment, interest per annum shall accrue from the date of the default or delay of the payment at the prevailing statutory interest rate of 4.75% per year from this date through December 31, of this current year for which let execution issue. Thereafter, on January 1

of each year until the restitution is paid, the interest rate will adjust in accordance with Florida Statutes;

c. If the Respondent is not able to locate the client, the amount owed to the client shall be paid to Clients' Security Fund of The Florida Bar; and

d. Payment of The Florida Bar's costs in these proceedings.

**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: 41

Date admitted to the Bar: September 14, 2004

Aggravating Factors: 9.22

- (a) dishonest or selfish motive;
- (b) a pattern of misconduct;
- (c) multiple offenses;
- (d) refusal to acknowledge wrongful nature of conduct;
- (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
- (f) substantial experience in the practice of law;



(g) indifference to making restitution.

Mitigating Factors: 9.32

(a) Prior Discipline: None

(b) No other factors were considered as Respondent failed to appear to any court mandated hearings, including her Final Hearing.

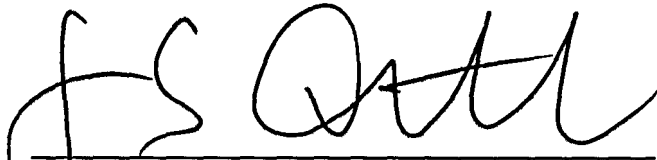
**VIII. Statement of Costs and Manner in Which Costs Should be Taxed.**

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

Administrative Costs	\$1,250.00
Auditor Costs	\$1,285.25
Investigative Costs	\$258.12
Court Reporter Costs	\$135.00
Bar Counsel Travel Costs	\$77.79
<b>TOTAL</b>	<b>\$3,006.16</b>

It is further Recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be deemed delinquent thirty (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 22 day of December, 2015.

  
\_\_\_\_\_  
Honorable John S. Kastrenakes, Referee  
Palm Beach County Courthouse

ORIGINAL PROVIDED:

Clerk of the Supreme Court of Florida  
Supreme Court Building  
500 South Duval Street  
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CONFORMED COPIES PROVIDED:

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