



IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

v.

TIMOTHY PATRICK MCCABE,  
Respondent.

Supreme Court Case  
Nos. SC13-549 and SC13-636

The Florida Bar File Nos.  
2012-50,907(15C); 2013-50,616(15C)  
2013-50,696(15C); 2013-50,822(15C)  
2013-51,064(15C); 2013-51,270(15C) FES  
2013-51,301(15C); 2013-51,325(15C)  
2013-51,339(15C); 2013-51,382(15C)  
2013-51,388(15C); 2013-51,391(15C)  
2013-51,392(15C); 2013-51,393(15C)  
2013-51,394(15C); 2013-51,395(15C)  
2013-51,396(15C); 2013-51,400(15C)  
2013-51,401(15C); 2013-51,470(15C)  
2013-51,472(15C); 2013-51,484(15C)  
2013-51,494(15C); 2013-51,499(15C)  
2013-51,505(15C); 2013-51,537(15C)  
2013-51,556(15C); 2013-51,558(15C)  
2013-51,626(15C)

REPORT OF REFEREE ACCEPTING DISBARMENT ON CONSENT

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 April 1, 2013, The Florida Bar filed its Complaint against respondent in SC13-549, alleging that respondent committed a fraud on the court when he filed a

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quiet title action when a foreclosure lawsuit already existed against him and he failed to bring the pre-existing foreclosure suit to the attention of the court hearing the quiet title action.

On April 16, 2013, The Florida Bar filed its Petition for Emergency Suspension against respondent in SC13-636. In this matter, The Florida Bar alleged that respondent took millions of dollars from his trust accounts without his clients' authorization and used the monies for his own personal and business use. The petition also alleged that respondent also abandoned his law practice. On April 18, 2013, the Florida Supreme Court granted The Florida Bar's Petition for Emergency Suspension.

On or about June 14, 2013, this Referee granted The Florida Bar's Motion for Default Judgment in both matters when respondent failed to file a response to either pleading.

On or about June 28, 2013, respondent entered into a Disbarment on Consent and agreed to "immediate and permanent disbarment" and to "reimburse the Clients' Security Fund (CSF) for any and all funds CSF has paid or may pay out for claims resulting from respondent's misconduct."

All 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.

## 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. Respondent is currently the subject of 29 separate Florida Bar disciplinary matters which have been assigned Florida Bar File Nos. 2012-50,907(15C); 2013-50,616(15C); 2013-50,696(15C); 2013-50,822(15C); 2013-51,064(15C); 2013-51,270(15C)FES; 2013-51,301(15C); 2013-51,325(15C); 2013-51,339(15C); 2013-51,382(15C); 2013-51,388(15C); 2013-51,391(15C); 2013-51,392(15C); 2013-51,393(15C); 2013-51,394(15C); 2013-51,395(15C); 2013-51,396(15C); 2013-51,400(15C); 2013-51,401(15C); 2013-51,470(15C); 2013-51,472(15C); 2013-51,484(15C); 2013-51,494(15C); 2013-51,499(15C); 2013-51,505(15C); 2013-51,537(15C); 2013-51,556(15C); 2013-51,558(15C); 2013-51,626(15C).

2. With regard to any and all pending files in which probable cause has not yet been found, respondent waives his right to consideration by a grievance committee as provided for by Rule 3-7.4, Rules of Discipline, and hereby stipulates that probable cause for further disciplinary proceedings exists as to these matters.

3. The charges in the pending disciplinary cases allege that:

**Cases Currently Pending before the Supreme Court of Florida:**

4. In The Florida Bar File No. 2012-50,907(15C), Supreme Court Case No. SC13-549, respondent failed to respond and a default had been entered against him. The case alleged that respondent knowingly made material misrepresentations to the court in order to commit fraud in a real estate/foreclosure matter. Respondent is charged with violating R. Regulating Fla. Bar 4-3.1 for bringing a frivolous lawsuit; 4-3.3(a) for making a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law made to the tribunal by the lawyer; failing to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client; failing to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or knowingly offering false evidence; 4-4.1(a) [In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.]; 4-4.1(b) for knowingly fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client; 4-8.4(a) for violating the Rules of Professional Conduct; 4-8.4(b) for committing a criminal act that reflects adversely on the lawyer's honesty,

trustworthiness, or fitness as a lawyer in other respects; 4-8.4(c) for engaging conduct involving dishonesty, fraud, deceit, or misrepresentation; and 4-8.4(d) for engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice.

5. In Florida Bar File No. 2013-51,270(15C)FES, Supreme Court Case No. SC13-636 respondent was suspended on an emergency basis, based on allegations of misappropriation of client funds. Respondent is charged with violating R. Regulating Fla. Bar 3-4.3 for the commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether 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; 4-1.15 for failing to comply with The Florida Bar Rules Regulating Trust Accounts; 4-8.4(b) for committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; 4-8.4(c) for dishonesty, fraud, deceit or misrepresentation; 5-1.1 for failing to comply with trust accounting requirements; 5-1.1(a)(i) for failing to hold in trust, separate from the lawyer's own property, funds or property of clients or third persons that are in a lawyer's possession in connection with a representation; and 5-1.1(b) for failing to hold in trust and applying only to that purpose, money or other property

entrusted to an attorney for a specific purpose, including advances for fees, costs, and expenses.

**Cases Pending at Staff Level:**

6. The Florida Bar File Nos. 2013-51,301(15C); 2013-51,325(15C); 2013-51,339(15C); 2013-51,382(15C); 2013-51,388(15C); 2013-51,391(15C); 2013-51,392(15C); 2013-51,393(15C); 2013-51,394(15C); 2013-51,395(15C); 2013-51,396(15C); 2013-51,400(15C); 2013-51,401(15C); 2013-51,470(15C); 2013-51,472(15C); 2013-51,494(15C); 2013-51,499(15C); 2013-51,537(15C); 2013-51,556(15C); 2013-51,626(1C) all contain allegations of misappropriation of client funds.

7. The Florida Bar File Nos. 2013-50,616(15C); 2013-50,696(15C); 2013-50,822(15C); 2013-51,064(15C); 2013-51,484(15C); 2013-51,505(15C); 2013-51,558(15C) all contain allegations that respondent accepted fees to represent clients in loan modification cases and thereafter failed to take any significant action in the cases.

8. Further, in or about April 2013, respondent abandoned his practice with no notice to his clients, opposing counsel or the courts.

9. Finally, on or about June 19, 2013, the case styled United States of America v. McCabe, case No. 13-08307, was filed in the United States District Court for the Southern District of Florida.

10. The criminal complaint alleged respondent committed wire fraud and financial institution fraud in violation of 18 U.S.C. Section 1343 and Section 1344.

### III. RECOMMENDATIONS AS TO GUILT

Respondent admits that the foregoing allegations, if proven, would constitute a violation of the following Rules Regulating The Florida Bar: 3-4.3 for the commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether 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; 4-3.1 for bringing a frivolous lawsuit; 4-3.3(a) for making a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law made to the tribunal by the lawyer; failing to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client; failing to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or knowingly offering false evidence; 4-4.1(a) [In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.]; 4-4.1(b) for knowingly failing to disclose a material fact to a third person

when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client; 4-1.15 for failing to comply with The Florida Bar Rules Regulating Trust Accounts; 4-8.4(a) for violating the Rules of Professional Conduct; 4-8.4(b) for committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; 4-8.4(c) for dishonesty, fraud, deceit or misrepresentation; 5-1.1 for failing to comply with trust accounting requirements; 5-1.1(a)(1) for failing to hold in trust, separate from the lawyer's own property, funds or property of clients or third persons that are in a lawyer's possession in connection with a representation; and 5-1.1(b) for failing to hold in trust and applying only to that purpose, money or other property entrusted to an attorney for a specific purpose, including advances for fees, costs, and expenses.

#### IV. 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. Immediate and permanent disbarment
- B. Payment of The Florida Bar's costs
- C. Permanent Disbarment on Consent entered immediately by the Supreme Court. Respondent is not practicing law due to his emergency suspension in Supreme Court Case No. SC13-636.



V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1), I considered the following personal history of respondent, to wit:

Age: 55

Date admitted to the Bar: September 26, 1990

Prior Discipline: None

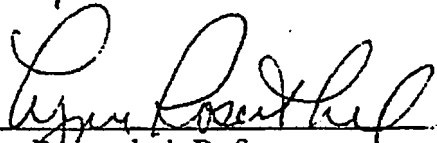
VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

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

A.	Grievance Committee Level Costs:	
	Bar Counsel Travel Costs	\$ 36.30
B.	Referee Level Costs:	
	1. Court Reporter Costs	\$ 100.00
	2. Bar Counsel Travel Costs	\$ 135.35
	3. Investigative Costs	\$ 140.53
C.	Administrative Costs	<u>\$1,250.00</u>
	TOTAL COSTS	\$1,662.18

It is recommended that such costs be charged to respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within thirty days of said judgment becoming final, respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 25<sup>th</sup> day of July, 2013.

  
Lynn Rosenthal, Referee  
Broward County Courthouse  
201 SE 6th St  
Fort Lauderdale, FL 333013303

Original To:

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