

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Petitioner,

Supreme Court Case
No. SC17-782

v.

The Florida Bar File
No. 2017-30,371 (07B) (CES)

DENNIS L. HORTON,

Respondent.

**RESPONSE TO EMERGENCY MOTION FOR RELIEF
AND CLARIFICATION REGARDING ORDER OF SUSPENSION**

Comes now The Florida Bar in response to respondent's Emergency Motion for Relief and Clarification Regarding Order of Suspension and says:

1. The bar's Petition for Emergency Suspension and the Court's order of emergency suspension entered on May 3, 2017 were not entered *ex parte*. Rule 3-5.2 of the Rules Regulating The Florida Bar sets forth the process for seeking emergency suspensions.

2. Further, rule 3-5.2(d) provides that the matter shall be immediately referred to a referee who then "... will determine when and how to pay the claim of any person entitled to funds in the frozen trust account after reviewing the bar's audit report, the lawyer's trust account records, the petitions filed or the receiver's recommendations." The order issued by the Supreme Court of Florida on May 3,

RECEIVED, 05/09/2017 02:33:26 PM, Clerk, Supreme Court

2017 directed the Honorable Toby S. Monaco, Chief Judge of the Eighth Judicial Circuit Court of Florida, to appoint a referee for the Court in the above matter and, within fourteen days of this order and to proceed with the matter on an expedited basis to determine entitlement to funds in the frozen accounts.

3. Rule 3-5.2(c) provides as follows: “Bar counsel will serve a copy of the Supreme Court of Florida’s order freezing a lawyer’s trust account via first class mail on the bank(s) in which the respondent’s trust account is held.”

4. The bar prepared and served the notices to the financial institutions where the affected accounts are held in accordance with the requirements of rule 3-5.2(c).

5. In his sworn statement taken on January 10, 2017 that was attached as Exhibit “B” to the bar’s Petition for Emergency Suspension, respondent testified, under oath, on page 19, lines 13-19, that he is the only signatory on the trust accounts in question.

6. Respondent never advised the bar that his son was a signatory on any of the affected accounts.

7. Respondent did not testify during his sworn statement that he had long standing business relationships with any of the financial institutions where the affected accounts are maintained. Further, such a relationship has no bearing on respondent’s misconduct. The fact that the bank officers chose to honor checks

respondent wrote without sufficient funds to cover them has no bearing on respondent's misconduct in issuing such checks.

8. Bar counsel advised Scott D. Leitner, counsel for First Green Bank, that respondent's account is frozen and only the referee could determine the use of the funds. This statement was made in accordance with the provision of R. Regulating Fla. Bar 3-5.2(c) and was not intended as legal advice to counsel for the bank. The rule states: "Any order of emergency suspension or probation that restricts the attorney in maintaining a trust account will be served on the respondent and any bank or other financial institution maintaining an account against which the respondent may make withdrawals. The order will serve as an injunction to prevent the bank or financial institution from making further payment from the trust account or accounts on any obligation except in accordance with restrictions imposed by the court through subsequent orders issued by a court-appointed referee. Bar counsel will serve a copy of the Supreme Court of Florida's order freezing a lawyer's trust account via first class mail on the bank(s) in which the respondent's trust account is held."

WHEREFORE, the complainant requests this Honorable Court refer respondent's Emergency Motion for Relief and Clarification Regarding Order of Suspension to the referee for determination in accordance with R. Regulating Fla. Bar 3-5.2(d).

Respectfully submitted,



Carrie Constance Lee, Bar Counsel
The Florida Bar
Orlando Branch Office
The Gateway Center
1000 Legion Place, Suite 1625
Orlando, Florida 32801-1050
(407) 425-5424
Florida Bar No.: 552011
clee@floridabar.org
orlandooffice@floridabar.org

CERTIFICATE OF SERVICE

I certify that this document has been E-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida with a copy provided via email to The Honorable Toby S. Monaco, Chief Judge of the Eighth Judicial Circuit, Alachua County Courthouse, 201 E. University Avenue, Gainesville, Florida 32601-5457 at jordanc@circuit8.org; to Respondent's Counsel, Brett Alan Geer, The Geer Law Firm, 3030 N. Rocky Point Drive W., Suite 150, Tampa, Florida 33607-7200 at brettgeer@geerlawfirm.com; and to Staff Counsel, The Florida Bar, Lakeshore Plaza II, Suite 130, 1300 Concord Terrace, Sunrise, Florida 33323, aquintel@flabar.org, using the E-filing Portal, this 9th day of May, 2017.



Carrie Constance Lee, Bar Counsel