

# SUPREME COURT OF FLORIDA

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No. 78,157

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THE FLORIDA BAR, Complainant,

vs.

MARK H. KELLY, Respondent.

[July 24, 1991]

## OPINION:

Upon consideration of The Florida Bar's Petition for Temporary Suspension and the Respondent's response thereto, it is hereby ordered as follows:

1. Respondent Mark H. Kelly is hereby suspended from the practice of law until further order of this court.
2. Respondent shall have thirty days from the date of this order in which to close out his practice, and shall cease representing clients no later than thirty days from the date of this order, and shall accept no new clients immediately upon receipt or notice of this order.
3. Respondent shall produce to staff counsel and Miami office branch staff counsel or their designee all records in his possession relating to funds or property entrusted to him by clients, within thirty days of the date of this order.
4. Respondent shall provide notice of this temporary suspension to all clients as required by rule 3-5.1(h) and provide staff counsel and branch staff counsel with an affidavit listing all clients so notified.
5. Respondent shall provide staff counsel and branch staff counsel an affidavit identifying the locations of all funds held in trust for clients within thirty days of his receipt of this order.

6. Respondent shall refrain from withdrawing any money from any bank account until further order of this Court unless he first notifies Miami office branch staff counsel and obtains approval of such withdrawal.

7. Respondent shall immediately notify in writing every bank or other institution in which he maintains an account of the provisions of this suspension and provide The Florida Bar copies of such written notifications.

8. Respondent shall deposit into a specified trust account all sums received from the practice of law, whether as fees, costs, deposits, or other funds, and shall immediately advise the Court and branch staff counsel of the receipt and location of such funds.

9. Respondent shall not transfer the ownership of any real or personal property purchased in whole or in part with funds belonging to clients and shall notify staff counsel of his intent to transfer ownership of any real or personal property and provide staff counsel with information proving that the property was not purchased with funds belonging to a client.

10. Within thirty days of receipt of this order, Respondent shall request in writing the instructions of all his clients with matters pending as to the manner in which their files should be returned to them or transferred to other counsel and shall thereafter honor the directions of his clients. Respondent shall provide to staff counsel or his designee a complete inventory of all such requests and the results thereof within sixty days of his receipt of this order.

And it is further ordered that this proceeding shall forthwith be referred to a referee for a hearing followed by the filing of a referee's report including recommendations as to whether Respondent should remain temporarily suspended as provided in this order.

It is so ordered.

The Chief Justice hereby designates Maxine C. Lando, a judge of the Dade County Court of Florida, to serve as referee in this matter. Pursuant to rule 3-5.1(g), the designated referee shall hold a hearing forthwith and submit her report and recommendation to the Court with the utmost speed consistent with due process.

DONE AND ORDERED at Tallahassee this 24th day of July, 1991.

JUDGES: Leander J. Shaw, Jr., C.J., and Grimes, Kogan, and Harding, JJ., concur. McDonald and Barkett, JJ., would defer action on the Bar's petition pending receipt of referee's report.