

Supreme Court of Florida

No. 84,137

THE FLORIDA BAR,

Complainant,

vs.

LARRY JAY KUSHNER,

Respondent.

[January 25, 1996]

PER CURIAM.

We have for review the complaint of The Florida Bar (the Bar) and the referee's report regarding alleged ethical breaches by Larry Jay Kushner. We have jurisdiction. Art. V, § 15, Fla. Const. We approve the report.

While serving as a lawyer in New York, Kushner converted to his own personal use \$15,678 in client funds entrusted to him to establish an education account for his client's daughter.

Kushner pled guilty to grand larceny, was convicted, and was sentenced to eight days' incarceration, five years' probation, and payment of restitution.

The Bar filed a complaint with this Court asking that Kushner be disciplined and we appointed a referee. When Kushner failed to timely respond to the complaint or to file a written argument or affidavits in opposition to the Bar's motion for summary judgment, the referee recommended that Kushner be found guilty of violating Rules Regulating The Florida Bar 4-8.4(b) (commission of a criminal act) and 4-8.4(c) (engaging in dishonest conduct) and that he be disbarred. Kushner petitioned for review but filed no brief or argument in opposition to the referee's report.

We find that competent substantial evidence supports the referee's findings of fact and conclusions as to guilt and we approve the report in its entirety. Our review of the record also indicates that the recommended discipline is appropriate.

Larry Jay Kushner is hereby disbarred. The disbarment will be effective thirty days from the filing of this opinion so that Kushner can close out his practice and protect the interests of existing clients. If Kushner notifies this Court in writing that he is no longer practicing in Florida and does not need the thirty days to protect existing clients, this Court will enter an order making the disbarment effective immediately. Kushner shall accept no new business from the date this opinion is filed.

Judgment for costs in the amount of \$859.75 is hereby entered in favor of The Florida Bar against Larry Jay Kushner, for which sum let execution issue.

It is so ordered.

GRIMES, C.J., and OVERTON, SHAW, KOGAN, HARDING, WELLS and ANSTEAD, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THIS DISBARMENT.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director, John T. Berry, Staff
Counsel and James N. Watson, Jr., Bar Counsel, Tallahassee,
Florida,

for Complainant

Larry Jay Kushner, pro se, White Plains, New York,

for Respondent