IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

RONALD LEON BLOOM,

Respondent.
_____/

Case No. SC06-1025

TFB File Nos. 2004-01,412(4A), 2005-00,002(4A), 2005-00,737(4A), 2005-00,874(4A), 2006-00,472(4A), 2006-00,514(4A), 2006-00,559(4A), 2006-00,950(4A)

ANSWER BRIEF

James N. Watson, Jr., Bar Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, FL 32399-2300
(850)561-5845
Florida Bar No. 144587

Kenneth Lawrence Marvin, Staff Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
(850)561-5600
Florida Bar No. 200999

John F. Harkness, Jr., Executive Director
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
(850)561-5600
Florida Bar No. 123390

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PRELIMINARY STATEMENT

Appellant, Ronald Leon Bloom, will be referred to as Respondent, or as Mr. Bloom throughout this brief. The Appellee, The Florida Bar, will be referred to as such, or as the Bar.

References to The Florida Bar's Formal Complaint shall be by Complaint followed by the appropriate paragraph number (Complaint, ¶3).

References to the Report of Referee shall be by the symbol RR followed by the appropriate page number (RR, 14).

References to the transcript of the final hearing before the Referee on October 16, 2007, Volumes I and II shall be by the symbol TR1 followed by the appropriate page number (e.g., TR1, 28). References to the transcript of the final hearing before the Referee on October 17, 2007, shall be by the symbol TR2 followed by the appropriate page number (e.g., TR2, 30).

References to Bar exhibits shall be by the symbol TFB Ex followed by the appropriate exhibit number (e.g., TFB Ex. 10), references to Respondent's exhibits shall be by the symbol R Ex followed by the appropriate exhibit number (e.g., R Ex. 2).

References to specific pleadings will be made by title.

STATEMENT OF THE CASE

In Supreme Court Case Number SC06-578, the Bar filed a Petition for Emergency Suspension on April 4, 2006. Mr. Bloom did not contest the emergency suspension and it became effective on April 10, 2006. In Supreme Court Case Number SC06-1025, the Bar filed its Complaint on May 26, 2006, and the final hearing was held on October 16 and 17, 2006. The Referee executed his Report on October 31, 2006, recommending disbarment. Mr. Bloom filed his Petition for Review on December 27, 2006, and contests the Referee's recommendation that Respondent be found guilty of violating Rules Regulating The Florida Bar 5-1.2(b) and 5-1.2(c), the Referee's finding with regard to the mitigating circumstances and the discipline imposed.

STATEMENT OF THE FACTS

At the time of the Final Hearing, Respondent was a 59-year-old attorney who had been admitted to The Florida Bar on November 10, 1972. Respondent has practiced law in Jacksonville, Florida, for 33 years with his primary area of practice in the field of workers' compensation. (RR, 3)

On April 10, 2006, an order of emergency suspension was entered against Respondent in Supreme Court Case Number SC06-578. As a result of the emergency suspension, a six-count formal complaint was filed against Respondent (Complaint).

Count I of the Bar's complaint was based on a sworn complaint filed by Cybersettle Financial Services (CFS) in November 2005 alleging Respondent had converted attorney fees assigned to them by Respondent. (Complaint, ¶3)

Respondent assigned his attorney fees to CFS in several cases in order to receive cash earlier than he would have if he awaited settlement funds. Respondent acknowledged these transactions were an absolute transfer and assignment of the amounts advanced and were not to be deemed loans by CFS to be repaid from settlements. (Complaint, ¶6A)

Respondent entered into an agreement with CFS on August 17, 2005, whereby he assigned $9,250 in future fees in the Sakhno lawsuit for an advanced payment of $85,000 in settlement of Sakhno and took attorney fees of $21,962.50 and costs of $3,001.86. Respondent failed to forward the assigned funds to CFS from the Sakhno settlement thus converting the same. (Complaint ¶6C-E)

On August 3, 2005, Respondent and CFS entered into another agreement whereby Respondent assigned $12,750 of attorney fees in the Adams settlement for an advance of $12,095.75. Respondent deposited $120,000 in settlement proceeds in his trust account on November 2, 2005. Respondent paid himself $32,316.22 in attorney fees without forwarding CFS it's $12,750 of assigned funds, thereby converting the same. (Complaint, ¶6F-I)

The Bar's audit of Respondent's trust account revealed Respondent had borrowed funds from three clients after obtaining settlement funds for them.

On October 15, 2005, Respondent met his client Margaret Fernandez at a bank and had in his possession a settlement check for $175,000. Respondent refused to give Fernandez her proceeds unless she loaned him part of her settlement. Respondent ultimately was given $5,000 by Fernandez in exchange for a handwritten note that contained no date of repayment, interest, or collection costs. Respondent also failed to advise Fernandez of her right to seek independent counsel. (Complaint, ¶8A-F)

On July 12, 2004, Respondent borrowed $14,500 from his client, Michael Boykin, at the time he delivered settlement proceeds. Respondent provided Boykin a handwritten note promising to repay the loan in 90 days at 7% interest. Respondent later borrowed another $2,500 from Boykin without a note. At no time did Respondent advise Boykin he could seek independent counsel on the loans. Respondent's note was unsecured and contained no provisions for collecting costs or attorney fees if collection proceedings

became necessary. Boykin was required to file a Bar complaint which prompted repayment by Respondent. (Complaint, ¶8G-M)

On February 25, 2005, Respondent borrowed $4,600 from his client Terry Pollock and another $5,000 from Pollock on July 21, 2005. Respondent failed to advise Pollock of his right to independent counsel. Both loans were secured by handwritten notes and failed to provide for interest or litigation costs. (Complaint, ¶8N-Q)

Based on the misconduct charged in Count I, the Referee recommended that Respondent be found guilty of violating Rules Regulating The Florida Bar 4-1.3, 4-1.4(a), 4-1.4(b), 4-1.5(a)(2), 4-1.5(e), 4-1.15, 4-4.1, 4-8.4(b), 4-8.4(c), 5-1.1(a)(1), 5-1.1(b), 5-1.1(e), 5-1.2(b), and 5-1.2(c). (RR, 22)

Counts II and III concern Respondent's failure to communicate with and diligently represent two different clients in 2004. Respondent admitted to all the allegations in these counts.

In Count II, Respondent was complained about by his client, Terry Bass, on July 6, 2004. The basis of Bass' complaint was Respondent's failure to communicate with Bass regarding the status of his workers' compensation claim. Upon learning of the complaint, Respondent wrote Bass a letter that he could no longer represent him unless he withdrew the Bar complaint. (Complaint, ¶¶12-16) The Referee found Respondent guilty of violating Rules Regulating The Florida Bar 4-1.3, 4-1.4(a), and 4-1.4(b). (RR, 22)

In Count III, Respondent's misconduct was based on his lack of diligently representing his client Michael Heath between January and May 2004. Respondent failed to return telephone calls from Heath, missed appointments, and failed to provide information on medical procedures. Respondent failed to respond to Heath's Bar complaint. (Complaint, ¶¶18-21) The Referee found Respondent guilty of violating Rules Regulating The Florida Bar 4-1.3, 4-1.4(a), 4-1.4(b), and 4-8.4(g). (RR, 23)

Count IV of the complaint sets forth the arrest of Respondent and the possession of cocaine. Laboratory reports tested positive for crack cocaine and Lorazepam. Criminal charges were not filed in light of a stop and search question and Respondent's voluntary entry into a Florida Lawyers Assistance, Inc., approved drug treatment program. (Complaint, ¶¶23-28) The Referee recommended that Respondent be found guilty of violating Rules Regulating The Florida Bar 4-8.4(b) and 4-8.4(c). (RR, 23)

In Count V, Respondent was shown to have retained $5,000 from settlement proceeds from Michael Boykin to pay an attorney fee's lien to Boykin's former attorney. Respondent paid the lien of $3,000 and failed to repay Boykin the remaining $2,000. (Complaint, ¶¶30-34)

While representing Boykin, Respondent traveled to Orlando, Florida, in an attempt to retrieve settlement checks in Boykin's case. When the checks were not available, Respondent removed artwork from the defense counsel's reception area. When contacted about the theft, Respondent denied such until he was informed he had been filmed by security cameras. Respondent later had the artwork returned. (Complaint,

¶¶35-37) The Referee found Respondent guilty of violating Rules Regulating The Florida Bar 4-1.3, 4-1.4(a), 4-1.4(b), 4-1.5(b), 4-1.8(a), and 4-8.4(c). (RR, 23)

In January 2006, Respondent received a settlement for his client, Mark Colbert, in the amount of $35,000 with a court-approved attorney fee of $4,250. Respondent contacted Colbert and had him meet him at a check cashing service. After paying $700 to have the check cashed, Respondent gave Colbert $20,000 stating the balance of Colbert's funds had to be retained until the check cleared. Colbert unsuccessfully attempted to contact Respondent for several weeks about the remainder of his funds. On February 27, 2006, Respondent's father paid Colbert $1,000 towards the amount owed. At the time of the final hearing, Respondent still had not paid Colbert $7,000 of the $10,750 he had retained. (Complaint, ¶¶39-46) The Referee found Respondent had violated Rules Regulating The Florida Bar 4-1.3, 4-1.4(a), 4-1.4(b), 4-1.5(b), 4-1.8(a), and 4-8.4(c). (RR, 23)

Respondent's Addictive Behavior

Respondent admitted to almost 20 years of cocaine addiction while functioning as an attorney. (RR, 11) During this time, Respondent attended numerous rehabilitation programs. (TR2, 9-10) Respondent also participated with Florida Lawyers Assistance, Inc., programs several times in 1987. (RR, 18) As a result of his cocaine arrest in 2005, Respondent sought short-term treatment and entered into a voluntary contract with Florida Lawyers Assistance, Inc. (TR1, 160) Respondent relapsed and began using cocaine again shortly after his criminal charges were dropped approximately four months after his arrest in February 2005. (TR2, 15) At the time the charges were dropped, Respondent was going to AA meetings regularly and participating in the Greenfield Center and treatment. (TR2, 15-16)

Respondent presented testimony from Judges Boyer, Arnold, Fryefield and Moran and affidavits from former Justice Major Harding and Judges Harrison, Boyer, Arnold, Haddock and Nachman. Nearly all of these witnesses agreed that the behavior exhibited by Respondent was the result of his drug addiction and that if rehabilitated Respondent could become an asset to the Bar. (RR, 17)

Several of the professionals involved with Respondent's current recovery program testified as to their observations and impressions. Dr. Mickey Greenfield testified in his capacity as a Certified Addiction Professional. He diagnosed Respondent as a cocaine dependent in remission. Dr. Greenfield stated Respondent's current motivation could be

the Bar's action or that Respondent now sees the need to overcome his addiction. (RR, 19)

Respondent's AA sponsor, James Sullivan, and other witnesses from his treatment program at the Alumni House testified they had seen a change in attitude in Mr. Bloom's behavior, he has expressed remorse and is working the AA 12 Step Program. (RR, 20-21)

While many of the judges felt that disbarment would hinder Mr. Bloom's recovery, some of the lay witnesses felt that there should be no connection between disbarment and recovery. (RR, 22)

Mr. Bloom testified in his own behalf and gave a statement expressing remorse for his behavior that led to his troubles with the Bar. (TR1, 196-198)

In regards to his arrest on cocaine possession in 2005, Respondent admitted that he entered into a contract with Florida Lawyers Assistance, Inc., as part of an attempt to have the criminal charges dropped. This was voluntary. (TR2, 12-13)

On April 27, 2005, Respondent's mental health counselor, John Staggs, wrote a letter to Respondent's defense attorney, Alan Rosner. In this letter, Staggs writes that Respondent had been clean and sober since February 28, 2005, Respondent is attending intensive outpatient five days a week at the Greenfield Center, attending AA meetings daily, has a sponsor, and is working a 12-step program. Weekly urine analysis were reported as clean for the eight-week period. (TR2, 14)

Mr. Staggs continues in his April 27th letter stating Mr. Bloom's embrace of sobriety appears to have had a very positive impact on his emotional status. Staggs further describes Respondent as able to work more diligently on his legal practice, is finding more success and has recently settled a complicated workers' compensation case. (TR2, 14) Respondent's criminal charges were dismissed on June 20, 2005.

SUMMARY OF ARGUMENT

The Referee, as trier of fact, established sufficient factual findings upon which to base his recommendation of disbarment. The specific mitigators and aggravators cited by the Referee within his report are based upon the requisite proof of clear and substantial evidence. As long as the Referee's recommendation has a reasonable basis in existing case law, the recommendation should be affirmed. In the instant case, the recommendation is well based in existing case law.

Mr. Bloom's contracts with Cybersettle Financial Services were not loans secured by attorney fees. The agreements entered into between Mr. Bloom and Cybersettle Financial Services were assignments of earned attorney fees. Respondent received these funds in trust for Cybersettle Financial Services and his failure to transmit the assigned funds constituted theft or conversion.

The appropriate discipline for the misconduct of Mr. Bloom is disbarment as recommended by the Referee.

ARGUMENT

ISSUE I

THE REFEREE ERRED IN FINDING RESPONDENT GUILTY OF VIOLATING RULES REGULATING THE FLORIDA BAR 5-1.2(b) AND 5-1.2(c)

A review of the record confirms Respondent's position that the Referee's recommendation that Mr. Bloom be found guilty of violating the provisions of Rules Regulating The Florida Bar 5-1.2(b) and 5-1.2(c) should be dismissed. The Bar did in fact abandon those rule violations found in Count I, paragraph 10, of the Complaint.

ISSUE II

THE REFEREE DID NOT APPROPRIATELY FIND OR WEIGH THE MITIGATING FACTORS

Respondent argues that the Referee's recommendation that Mr. Bloom be disbarred should not be accepted since his recommendation and analysis does not have a "reasonable basis in existing case law." In support of its position, Respondent cites The Florida Bar v. Karahalis, 780 So.2d 27 (Fla. 2001). The general principle set forth in Karahalis is that the Supreme Court will not second-guess a Referee's recommended discipline as long as that discipline has a reasonable basis in existing law. Karahalis at p. 28.

In reviewing Karahalis, there is no statement or rule for an automatic rejection of a Referee's recommendation where the Report of the Referee is silent as to supportive case law or Standards for Imposing Lawyer Sanctions. This standard of review is set out as a general rule in those matters where a Referee's recommendation as to discipline is challenged and the Court has repeatedly held that a Referee's recommendation for discipline receives less deference by the Court than a Referee's guilt finding. The Florida Bar v. Feige, 937 So.2d 605, 609 (Fla. 2006).

While the Report of the Referee only specifically mentions two specific mitigating factors delineated in the Standards for Imposing Lawyer Sanctions, the Report of the Referee is replete with mitigating factors presented by Respondent's witnesses and affidavits. In his report, the Referee makes a specific reference to having considered the

mitigating and aggravating circumstances of the case in making his recommended discipline. (RR, 24)

A. Respondent argues that the Referee should have listed several specific mitigators in addition to the factors of remorse and interim rehabilitation listed in his report. (RR, 24) Respondent argues that in addition to the specific mitigators contained in the Report of the Referee, he should have listed a timely good faith effort to make restitution, full and free disclosure to the disciplinary board or cooperative attitude toward the proceedings, character or reputation, and physical or mental disability or impairment.

1. Physical or Mental Disability. As set forth in Respondent's brief, the findings of fact as established by Respondent's witnesses clearly set forth the extent of Mr. Bloom's addiction and how it has impacted his conduct and reputation. It is abundantly clear from reading the Report of the Referee that the Referee was profoundly aware of the physical and mental effects that Respondent's cocaine addiction had on Respondent.

   The Referee made these specific findings from the circumstances of the misconduct admitted to by Respondent and from Respondent's own testimony. The Referee specifically noted in his report that he considered the mitigating circumstances. Respondent asks this Court to ignore this preface to his

recommendation merely because a specific reference was not made to this being a listed mitigator.

2. Reputation or Character. Again Respondent makes the same point about there being no specific mitigator listing Respondent's reputation and character. Respondent closely follows the findings of the Report of the Referee and points to specific factual findings regarding Mr. Bloom's reputation in the field of workers' compensation law. They cite to the Referee's finding that Mr. Bloom was well respected and had strong support from the judiciary. (RR, 17)

The Referee did specifically cite to Respondent's age and length of time practicing law. (RR, 24)

Respondent acknowledges that a lawyer's reputation and good deeds do not act as a credit against misconduct. The Florida Bar v. Brown, 790 So.2d 1081, 1089 (Fla. 2001). The Court in Brown specifically notes that in the context of more egregious rule violations this is especially true. Brown at 1089. Brown further provides that an attorney's character and reputation may be considered in mitigation. While many witnesses for Respondent spoke highly of Respondent's reputation as a competent practitioner in the area of workers' compensation law, very little was said regarding his

reputation outside the practice of law. Respondent admitted to 20 years of cocaine addiction, several arrests for drug possession, and numerous failed attempts at rehabilitation. (TR1, 192; TR2, 8-14)

3. Cooperative Attitude. The Referee duly noted in his report Mr. Bloom's cooperativeness and his position of having admitted to most of the violations. Again, the Referee makes these findings of a mitigating nature and plainly states that in making his recommendation as to appropriate discipline he considered the mitigating circumstances. No where in his report did he limit his consideration solely to this mitigators cited in his report.

4. Good Faith Effort at Restitution. In his report, the Referee found that Respondent's efforts at restitution were compelled by the circumstances of the case and found that such served as a non-mitigating/non-aggravating circumstance. (RR, 25)

Respondent argues that the repayments to Ms. Fernandez and Mr. Boykin were good faith efforts to make restitution. Mr. Bloom admitted that he did not repay the loan to Boykin until his failure resulted in a Bar complaint by Boykin. (TR1, 8-9) Having taken advantage of his attorney-client relationship to secure an improper loan and then failing to repay the debt until a Bar complaint is filed

cannot be viewed in a favorable light that will support a mitigating circumstance.

Respondent next argues that Mr. Bloom's cooperation with CFS's counsel should be viewed as mitigation. Ms. Hauser's involvement was the result of a lawsuit filed in New York by CFS to recover assigned fees that Respondent converted to his personal use. (TR1, 37-38) This lawsuit was still pending at the time Respondent began making restitution. Also, the efforts by Respondent were only begun after his emergency suspension had been ordered.

In regards to the Colbert matter (Complaint, Count VI), Respondent still owes $7,000 in settlement proceeds that he kept from Colbert. The initial payment to Colbert of $1,000 came from Respondent's father and not Respondent.

As Respondent has argued previously, a Referee's finding as to the existence of a particular mitigator is considered a factual determination and is presumed correct unless clearly erroneous or lacking in evidentiary support. Tauler supra. p. 946. In this instance, the Referee specifically found that Respondent's restitution was compelled by the circumstances of the case and would be treated as a non-mitigating/non-aggravating factor. The facts surrounding Respondent's restitution after having a lawsuit filed

against him, being emergency suspended, and having a client complain to the Bar clearly support the Referee's finding. Respondent's argument that this finding is erroneous is not supported by the facts and must fail.

B. Referee's Analysis. Respondent next argues that the Referee's analysis of Respondent's mental status was erroneous and that Mr. Bloom's chemical dependency should mitigate the recommended disbarment to a lesser discipline.

Respondent argues that the Referee dismissed the testimony of Dr. Greenfield who explained that it would not help Mr. Bloom's situation to no longer be a lawyer. (TR1, 57)

As the trier of facts, the Referee is in a position to listen to all the evidence and judge the credibility of the witnesses. Dr. Greenfield was not the only witness to testify as to what impact the loss of Respondent's ability to practice law would have on his recovery.

Respondent represented the testimony of Harry Sullivan who is the director of TPC Village part of Gateway Services. Gateway provides detoxification to five counties, substance abuse programs, and some mental health activities. (TR1, 99) Mr. Sullivan is currently Respondent's sponsor in the AA group in which Mr. Bloom participates. (TR1, 106) Mr. Sullivan testified that the issue of recovery should not be dependent upon whether or not Respondent is allowed to practice law. (TR1, 118)

Virginia Thomas also testified for Respondent. Ms. Thomas works for the Alumni House which is part of Gateway Services. (TR1, 119) She is the Senior Administrator of recovery for the Alumni House. (TR1, 120) Ms. Thomas felt that, even if Mr. Bloom lost his license, he would find some feasible work, remain sober, and be a positive influence. (TR1, 127)

Respondent argues that the Referee in this case has set a bright line rule for disbarment where such is felt to benefit recovery of the attorney. Respondent would ask that the Referee's finding of what the impact of disbarment might be on Respondent's recovery is the sole issue of his recommended discipline and such a position ignores his stated basis of consideration where he finds that the proven allegations against Mr. Bloom are seriously egregious. While the cases of Sommers and Hartman have provided for less severe sanctions than disbarment, it cannot be seen that these holdings provide a basis that drug addiction by itself will dictate that a concern of encouraging reformation and rehabilitation will negate a consideration of disbarment as a relevant discipline.

ISSUE III

THE APPROPRIATE SANCTION IS A THREE-YEAR SUSPENSION FOLLOWED BY PROBATION IF MR. BLOOM IS REINSTATED

Respondent was charged in a six-count complaint that covered approximately a two-year period. The violations ranged from criminal drug possession to converting client funds. The Referee recommends disbarment after acknowledging Respondent's long history of drug addiction apparently feeling that the seriousness of Respondent's acts outweighed the mitigation of his addiction.

The Bar did not argue to the Referee that the allegations of drug possession carried a rebuttable presumption of disbarment. In its closing argument, the Bar cited to the case of The Florida Bar v. Finkelstein, 522 So.2d 372 (Fla. 1998), where a one-year suspension was imposed for felony drug possession.

Likewise, the Bar did not nor does not argue that improperly obtaining loans from clients carries a presumptive sanction of disbarment. If viewed separately without the other allegations, the cases and Standard 4.12 as cited by Respondent would mostly likely be persuasive for a discipline of suspension.

In viewing these particular violations, the circumstances surrounding the loans and the clients must be visited. All of the clients Respondent borrowed money from were worker compensation claimants. By nature, all had sustained some type of injury for which Respondent was seeking compensation. In the Fernandez loan, Respondent refused to deliver her settlement proceeds unless she loaned him money. After borrowing

funds from Boykin, Respondent made no effort to repay the funds until a Bar complaint was filed. The loans of almost $10,000 from Pollock were from a client who could least afford to take a chance on not having those sums repaid.

In Counts II and III, the complaints by Respondent's clients Bass and Heath concern Respondent's neglect and lack of diligence in handling their respective worker compensation claims. The Bar would agree with Respondent that, under Standard 4.42(b), suspension would be the presumptive sanction if these cases were heard on their own. The only aggravators outside the neglect of legal matters in these counts is Respondent's attempt to have Bass drop his Bar complaint in exchange for continued representation and Respondent's failure to respond to the Bar in the Heath complaint.

Counts I and VI deal with Respondent having misappropriated funds belonging to clients or parties with an interest in the funds.

Respondent entered into contracts with a company named Cybersettle Financial Services in order to receive advances on fees he was due in pending worker compensation claims. These advance fee agreements between CFS and Respondent state that Respondent acknowledged that the transaction was an absolute transfer and assignment of the assigned amount and was not deemed a loan to be repaid. (Complaint, ¶6C-E)

On August 3, 2005, Respondent and CFS entered into another agreement whereby Respondent assigned $12,750 of attorney fees to CFS from the Adams case. On November 2, 2005, Respondent received $120,000 in settlement proceeds in the Adams

case. Respondent took $32,316.22 for attorney fees and failed to forward CFS its assigned fees of $12,750.

At trial, Respondent admitted the violations relating to the Adams and Sakhno contracts with CFS. (TR1, 6-7) Through counsel, Respondent likewise admitted all violations that pertained to the CFS assignments in Sakhno and Adams. (TR1, 12-13) Mr. Bloom, under oath, verified that his counsel's admissions were his and he did so freely and voluntarily.

In his brief, Respondent would now characterize his transactions with CFS and the theft of their funds as analogous to circumstances in which an attorney has profited in a commercial transaction by failing to protect pledged collateral. (R Brief, 33)

In the CFS case, Respondent pled guilty and was found guilty of committing a criminal act (theft), engaging in conduct involving dishonesty (retaining assigned fees), failing to hold in trust funds and property of third parties, failing to apply money entrusted for a specific purpose only to that purpose and failing to notify CFS of receipt of the funds subject to assignment.

In arguing the court's holding in The Florida Bar v. Brown, 905 So.2d 76 (Fla. 2005), is applicable to the instance case Respondent again asserts the funds from CFS were loans. His fees were not collateral in any sense of the term. Respondent had assigned his interest in a portion of his fees to CFS and when he failed to forward the funds he converted them to his own personal use.

Having admitted to the specific facts and violations surrounding the retention and conversion of the funds assigned to CFS, Respondent should not be allowed on appeal to attempt to characterize the conduct and violations in another light. Respondent's argument in this aspect must fail.

In Count VI of the complaint, Respondent has admitted to wrongfully retaining $10,750 from his client, Mark Colbert, at the time of settlement. Respondent took this money based on a lie he told to his client. Respondent still owes Colbert $7,000 and this must be viewed as a theft. There was no loan agreement or assignment as in earlier situations. Respondent admitted to this misconduct and the attendant violations.

Appropriate Discipline

Respondent argues that Mr. Bloom's chemical dependency during the time frame of the complaint diminished his culpability of his misconduct. Respondent points to the firing of his father (RR, 12), exhibiting "bizarre and irrational behavior" at depositions (RR, 18), an the theft of artwork (RR, 13) as illustrations of how his decisions were affected.

Respondent paints a picture of Respondent being out of control and not being able to appreciate the harm he was doing.

A look at Mr. Bloom's conduct may show that while being addicted he was still functioning. Respondent removed the artwork from defense counsel's office on July 2, 2004. He received the Boykin proceeds on July 12, 2004, and convinced Boykin to loan his money from his settlement.

Respondent was arrested on February 28, 2005, and went into rehab under a Florida Lawyers Assistance, Inc., contract. From February 28 until the criminal charges were dropped on June 20, 2005. Respondent was clean and sober during this period. His treatment counselor commented on his change in attitude toward work, his ability to work more diligently on the development and oversight of his law practice and successfully settled a complicated lawsuit. (TR2, 13-14)

Respondent himself stated that except for the times that he was in in-patient treatment he was still maintaining his law practice. (TR2, 10)

In his statement to the Referee, Respondent testified that in 1996 he was selected in Law and Leading Attorneys. He continued to testify that 10 years later (2006) he is still listed in this publication. (TR1, 202)

Even after the relapse from rehabilitation as a result of his arrest, Respondent had the ability to locate CFS and negotiate four fee assignments and complete settlements for Fernandez and Colbert.

The above facts would appear to raise an issue with Respondent's argument that his addition so diminished his ability to function that his culpability should be mitigated.

As cited earlier, this Court has repeatedly held that a Referee's recommended discipline for attorney misconduct will be approved so long as it has a reasonable basis in existing case law. The Florida Bar v. Brown, 790 So.2d 1081 (Fla. 2001), The Florida Bar v. Broome, 932 So.2d 1036 (Fla. 2006).

In the hierarchy of misconduct, this Court has clearly established that misuse of client funds held in trust is one of the most serious offenses a lawyer can commit and that disbarment is presumed to be the appropriate punishment. The Florida Bar v. Travis, 765 So.2d 689 (Fla. 2000). The overwhelming majority of cases involving the misuse of client funds have resulted in disbarment regardless of the mitigation present. Travis at 691, The Florida Bar v. Shanzer, 572 So.2d 1383 (Fla. 1991).

In The Florida Bar v. Shuminer, 567 So.2d 430 (1990), this Court disbarred the attorney for misappropriation of trust funds. Shuminer had been found to be chemically dependent on alcohol and cocaine at the time of his violations which concerned misappropriation of trust funds and committed many of the same rule violations admitted to by Mr. Bloom. The Referee in Shuminer noted many of the same mitigating circumstances found in the instant Report of the Referee. The ruling in Shuminer also noted that the facts to be nearly identical to The Florida Bar v. Knowles, 500 So.2d 140 (Fla. 1986).

Both Shuminer and Knowles discuss the level of impairment of the attorneys. It was noted that in Shuminer the attorney continued to work regularly without diminished income and that in Knowles the attorney used a significant portion of the funds on a luxury automobile. In the case of Mr. Bloom, he has testified that, except for the times he was doing in-patient treatment, he kept up his law practice, one mental health counselor describe his ability to work diligently at his practice and settle a complicated lawsuit and Mr. Bloom bragged of maintaining his name on a list of select lawyers. In

light of these circumstances, it can be argued that Respondent has failed to establish that his addictions rose to a sufficient level of impairment to outweigh the seriousness of his offenses.

In The Florida Bar v. Shanzer, 572 So.2d 1382 (1991), this Court disbarred the attorney for trust account violations and misappropriation of trust funds. Shanzer had admitted the allegations and argued his emotion problems, full cooperation, his remorse, rehabilitation, and restitution should mitigate his discipline to something less than disbarment. The Respondent in Shanzer also argued that his depression led him to use his trust account for personal purposes. In rejecting this argument, the Court ruled that such problems are visited upon a great number of lawyers and that dipping into trust funds as a means of solving personal problems cannot be excused. Shanzer at 1384. In affirming the Referee's recommendation of disbarment, the Court found that the Referee did not abuse his discretion in finding Shanzer was not an instance where a mental problem impaired judgment so as to diminish culpability.

In Mr. Bloom's case, the Referee was made aware of Bloom's addiction and conduct attributed to his drug use. Likewise, he was also aware of the other aspects of Respondent's behavior where his life and work continued. The Referee also found that Respondent's addiction appears to be the product of his chosen lifestyle and not one from a collateral event or source. (RR, 17) Having found that Respondent's violations were egregious and taking into consideration the mitigating circumstances cited in the Report of

the Referee, the Referee was permitted to find disbarment appropriate and such finding cannot be found to be an abuse of his discretion.

Respondent strongly urges that the presumption of disbarment should be mitigated in light of Mr. Bloom's recovery efforts and interim rehabilitation. There is no guarantee that this will happen. Respondent has been on cocaine for 20 years by his own admission and achieved great success during this time. He has bee in and out of rehabilitation programs numerous times without success. Respondent has a history of turning to rehabilitation as a means of avoiding circumstances. The last time before the Court suspended him on an emergency basis, it was to avoid criminal prosecution. The language used by his counselor then strangely echoes everything that was presented to the Referee by his treatment witnesses. Why should this time be any different and now serve as a basis to mitigate Respondent's theft?

This Court has articulated that the misuse of client funds warrants disbarment because the single most important concern is the protection of the public from incompetent, unethical and irresponsible representation. The very nature of the practice of law requires that clients place their lives, their money, and their causes in the hands of their lawyers with a degree of blind trust that is paralleled in very few other economic relationships. Our primary purpose is to assure that the public can repose this trust with confidence. The Florida Bar v. Korones, 752 So.2d 586 (Fla. 2000).

While Respondent argues this Court has rendered a lesser penalty in other cases where addiction has played a role in the misconduct, such in itself cannot serve as a basis

to second guess the Referee in this matter and reject his recommendation of disbarment. Standard 4.11 provides that disbarment is appropriate when a lawyer intentionally and knowingly converts client property regardless of injury or potential injury. Standard 4.31(a) can be seen to apply to Respondent's misconduct as to his loans with clients and Standard 4.61 can apply to his deceit in obtaining money from Mr. Colbert. Respondent's theft is also considered as disbarable conduct under Standard 5.11(b). Under these standards and existing case law, the Referee's recommendation of disbarment is authorized and has a reasonable basis and the Referee's recommendation should be affirmed.

CONCLUSION

The Referee's recommendation of disbarment was made in light of the egregious nature of misconduct admitted to by Mr. Bloom. There was a reasonable basis for the Referee's recommendation in both the Standards for Imposing Lawyer Sanctions and existing case law. Disbarment is the appropriate sanction and the recommendation by the Referee should be affirmed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer Brief regarding Supreme Court Case No. SC06-1025 has been mailed by regular U.S. Mail to Ronald Leon Bloom, Respondent, c/o Scott K. Tozian, Counsel for Respondent, whose record Bar address is Smith, Tozian & Hinkle, P.A., 109 North Brush Street, Suite 200, Tampa, Florida 33602, on this 27th day of March, 2007.

_____

James N. Watson, Jr., Bar Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, FL 32399-2300
(850)561-5845
Florida Bar No. 144587

Copy provided to:
Kenneth Lawrence Marvin, Staff Counsel

CERTIFICATE OF TYPE, SIZE AND STYLE AND ANTI-VIRUS SCAN

Undersigned counsel does hereby certify that the Initial Brief is submitted in 14 point proportionately spaced Times New Roman font, and that the brief has been filed by e-mail in accord with the Court's order of October 1, 2004. Undersigned counsel does hereby further certify that the electronically filed version of this brief has been scanned and found to be free of viruses, by Symantec Antivirus.

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James N. Watson, Jr., Bar Counsel