IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,	**Supreme Court Case No. SC08-622**
Complainant,	
v.	
MARY ALICE GWYNN,	**The Florida Bar File Nos. 2004-51,111(15C)**
Respondent.	**2004-51,254(15C)**
	2006-51,409(15C)

_____/

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

The Florida Bar filed a formal complaint in this cause on April 1, 2010. The first referee was appointed on April 8, 2008. The parties served a joint stipulation of settlement on January 22, 2009, and the referee entered an order cancelling the scheduled trial. On or about February 18, 2009, respondent withdrew her plea. On February 20, 2009, The Florida Bar served a Motion for Partial Summary Judgment and on February 28, 2009, the Bar served a Motion to Set Case for Trial on Expedited Schedule. Respondent also filed a Motion for Partial Summary Judgment, on June 1, 2009. Both summary judgment motions were denied and the cause was set for final hearing on November 18-20, 2009. However, on November 6, 2009, the referee entered an Order of Disqualification of Judge (Referee). The November 2009 trial was cancelled and the second referee was appointed on

November 12, 2009. On December 18, 2009, respondent filed a Request for Recusal/Motion to Disqualify Judge. The second referee granted respondent's motion and a third referee was appointed on January 7, 2010. An Order of Disqualification was entered on January 19, 2010, and the fourth (and final) referee was appointed on January 21, 2010.

Pursuant to timely notice, the final hearing was held in this matter on August 9, 10, and 12, 2010. The pleadings and all other papers filed in this cause, which are forwarded to the Supreme Court of Florida with this report and an index, constitute the entire record.

During the course of these proceedings, respondent was represented first by John Bruce Thompson, and then by Brett Alan Geer. The Florida Bar was represented by Lorraine Christine Hoffmann.

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT WITH WHICH RESPONDENT IS CHARGED:

A. Jurisdictional Statement: Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, and subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Narrative Summary:

COUNT I

Respondent, Mary Alice Gwynn, represented Mr. Eugene Gorman, an elderly client, in 2003 and 2004. Ten years earlier, in 1994, Mr. Gorman had loaned money to Carl and Olga Santangelo, husband and wife. The Santangelo's signed a promissory note dated March 1994, in the amount of $100,000, payable to Robert Cimino as Mr. Gorman's trustee. [R. Exh. 1]. In January 1996, another promissory note for $100,000 was signed by Carl Santangelo as principal of Carl Santangelo, P.A., a law firm. This second note likewise was payable to Mr. Cimino as Gorman's trustee. [R. Exh. 2]. Thereafter, in or about July 2003, Carl Santangelo filed for personal bankruptcy.

On September 12, 2003, Respondent filed a UCC-1 with the State on Mr. Gorman's behalf, based on the 1994 note from Carl and Olga Santangelo. There was no competent substantial evidence that Respondent knew of Mr. Santangelo's bankruptcy filing as of the date she filed the UCC-1. By November 2003, she had become aware of the bankruptcy case. In Count I, the Florida Bar alleged that the 1996 note made by Santangelo's law firm "substituted for" the 1994 note made by Carl and Olga Santangelo; however, nothing on the face of the later instrument indicates or establishes that. Moreover, no clear and convincing evidence was presented proving that Respondent actually knew that purported fact to be true at any time pertinent to the allegations.

The evidence established that, upon her awareness of the fact of Mr. Santangelo's bankruptcy, Respondent did produce and tender a UCC-3 whereby she sought to preserve Mr. Gorman's rights under the 1994 note with respect to Olga Santangelo as debtor while removing Carl Santangelo. Respondent also filed a motion seeking to clarify the status of Mr. Gorman's claims. [R. Exh. 6]. Attached to that motion as an internal exhibit is a letter by Gorman to Mr. Santangelo dated August 2003, which referenced their recent talks regarding monies owed to Mr. Gorman. Although Mr. Gorman penned this letter after its recipient, Carl Santangelo, had filed for bankruptcy, no mention of that fact or that case appears in Gorman's letter. In addition, in his letter Mr. Gorman recounted having recently been out of the country, in Norway.

At trial the Bar claimed that in her Motion to Clarify [R. Exh. 6] Ms. Gwynn made a fraudulent misrepresentation to the court; that is, she violated Rule 4-8.4(c). This allegation was not pleaded with the requisite specificity. *See* Fla. R. Civ. P. 1.120(b); *cf.* R. Regulating Fla. Bar 3-7.6(f) and 3-7.6(h)(1)(B). At trial the Bar's sole witness, Patrick Scott, Esq., claimed that in paragraph 4 of her client's Motion to Clarify, Respondent stated that Mr. Gorman had not known that Mr. Santangelo had filed for bankruptcy at the time the UCC-1 had been filed – and that, in his opinion, was the false statement referenced in the pleading. The Bar's sole evidence of this alleged misrepresentation was the fact that in paragraph 4

Respondent referenced (and attached) Gorman's letter to support her assertion that her client had no timely knowledge of the bankruptcy. See R. Exh. 6, para. 4.

The Bar did not call Mr. Gorman to refute the assertion regarding his own knowledge; it merely had its paid expert opine as to the factual accuracy of the subject statement. In proving that a lawyer has engaged in fraud, deceit or misrepresentation the Bar must establish the lawyer's bad intent by clear and convincing evidence. *See Florida Bar v. Lanford*, 691 So.2d 480 (Fla. 1997) (regarding intent); *Florida Bar v. Rayman*, 238 So.2d 594 (Fla. 1970) (regarding standard of proof). The referee finds that the pleading and the evidence are insufficient to establish any violation of Rule 4-8.4(c) with respect to Count I.

The Bar alleged Respondent violated Rule 4-3.4(c) – that is, she knowingly disobeyed an obligation under the Rules of the Bankruptcy Court. The Bar did not specify which rule of court this allegation pertained to; however in paragraph 21 of the Complaint the Bar alleged that "Respondent purposely disobeyed the automatic stay" that "had been granted in the bankruptcy proceedings." The automatic bankruptcy stay is codified at 11 U.S.C. § 362. That statute operates automatically (hence the name) upon the filing of a petition in bankruptcy. Thus, by this allegation the Florida Bar is really alleging that Respondent actually knew about Mr. Santangelo's bankruptcy at the time she filed Mr. Gorman's UCC-1 on September 12, 2003. In proving such an allegation the Bar must directly or

indirectly prove Respondent's actual knowledge; *see* Preamble, *R. Regulating Fla. Bar* (Terminology). The evidence presented at trial did not prove Respondent actually knew the fact of Mr. Santangelo's bankruptcy at the time she filed Mr. Gorman's UCC-1. Moreover, 11 U.S.C. § 362 is a federal statute and not a "rule of a tribunal" (read: rule of court). Thus it is questionable whether "disobeying" its provisions would constitute a violation of Rule 4-3.4(c), R. Regulating Fla. Bar.

In the Complaint, paragraph 15, the Bar alleged that the attorney for the U.S. Trustee notified Respondent of her "obligation to release the UCC-1." The Bar presented no evidence to support that allegation. In Count I, the Bar also alleged a violation of Rule 4-1.1 (failure to provide competent representation to a client). This allegation appears to derive from the allegation that Respondent failed to understand or believe that the 1996 note made by Santangelo's law firm actually "substituted for" the 1994 note made by Carl and Olga Santangelo. The testimony of Mr. Santangelo established that he and Mr. Gorman are friends, and that Mr. Gorman may not have understood that the 1996 note was intended to substitute for the 1994 note. Mr. Santangelo's affidavit [R. Exh. 8] supports his testimony in this regard; moreover, he testified that Mr. Gorman may not even have known of the later note. Because there is no clear evidence that Respondent's client actually knew the underlying facts, there is no clear and convincing proof that Respondent incompetently represented her client based on those uncertain facts.

Lastly, it was not alleged in Count I that Respondent's failure to timely withdraw the UCC-1, or to otherwise deal more diligently or effectively with that contended matter prejudiced Mr. Gorman, and there was no evidence adduced that the administration of justice was prejudiced as a result. Therefore, the referee finds there is no clear and convincing evidence that Respondent improperly interfered in the administration of justice; thus she did not violate Rule 4-8.4(d). There likewise was no evidence of any knowing violation of Rule 4-8.4(a).

COUNT II

The Florida Bar File Nos. 2004-51,254(15C) and 2006-51,409(15C)

1. Respondent represented Eleanor Cole (hereinafter "Cole") as a creditor in the bankruptcy proceeding styled In Re: James F. Walker, Debtor, Case No. 03-32158-BKC-PGH, in the United States Bankruptcy Court, Southern District of Florida.

2. Respondent represented Cole from July 17, 2003 through June 9, 2004.

3. During the period of her representation, respondent failed to expedite the litigation in the best interest of Cole.

4. Instead, respondent filed numerous motions for sanctions against opposing counsel and other frivolous claims.

5. Such claims needlessly delayed the bankruptcy proceedings.

6. By failing to take substantive action in Cole's case, respondent failed to competently represent her client.

COUNT III

7. Because of the many frivolous motions that respondent filed in the bankruptcy case, the bankruptcy court entered an order, on April 26, 2006, finding that respondent had acted in bad faith. A copy of that order was attached to The Florida Bar's complaint as Exhibit E.

8. In its omnibus order, the court set forth, with specificity, its findings regarding the numerous instances in which respondent had acted dishonestly, incompetently, and in bad faith in the pending litigation.

9. Specifically, the court found that respondent had acted in bad faith by the following acts or omissions:

A. Respondent filed frivolous claims to harass her opponent and opposing counsel;

B. Respondent failed to research and verify claims she advanced in motions she filed with the court;

C. Respondent engaged in willful abuse of the judicial system;

D. Respondent alleged that opposing counsel was "generally dishonest" and accused him of committing fraud on the court;

E. Respondent continually made allegations, both in pleadings filed with the court and in her testimony before the court, that were simply incorrect and/or false.

F. Respondent's conduct was "objectively unreasonable and vexatious" and such "conduct has been sufficiently reckless to warrant a finding of conduct tantamount to bad faith … for the purpose of harassing her opponent."

10. Based on its findings of significant misconduct, the bankruptcy court's April 26, 2006 order also imposed a $14,000 sanction against respondent, and referred the matter to The Florida Bar for ethical review.

11. The court's April 26, 2006 order was affirmed by the United States District Court, Southern District of Florida, by order dated March 14, 2007.

COUNT IV

12. After entry of the April 26, 2006 order in bankruptcy court, respondent continued to file pleadings and papers with the court, despite the fact that she was no longer representing any party in the case.

13. On or about May 15, 2006, the federal court entered its "Order Directing Mary Alice Gwynn, Esquire to Stop Filing Notices of Filing." A copy of this order was attached to The Florida Bar's complaint as Exhibit F.

14. In this order, the bankruptcy court found that respondent had filed hundreds of pages of documents pursuant to Notices of Filings or Notices to the Court.

15. The court's order directed respondent to stop filing Notices of Filing unless specifically ordered to do so by the court, or unless mandated by either the Bankruptcy rules or the Local Rules.

16. Thereafter, on June 7, 2006, the court entered an order styled as follows: " Order 1) Denying Mary Alice's [sic] Gwynn's Motion for Rehearing and Reconsideration of the Court's Sua Sponte Order Directing Mary Alice Gwynn, Esq., to Stop Filing Notices of Filing (C.P. 1531); 2) Imposing Sanctions; and 3) Striking Court Papers Nos. 1529 and 1530." A copy of this order was attached to The Florida Bar's complaint as Exhibit G.

17. Such order found that even after the May 15, 2006 order was entered, prohibiting respondent from filing such documents with the court, respondent continued to file Notices of Filing, in defiance of the federal court's order.

18. In its June 7, 2006 order, the court also found that respondent "improperly attempted to influence this court by filing numerous Notices of Filing containing inappropriate hearsay documents that are unrelated to any pending contested or adversary proceedings. In so doing, Gwynn engaged in unprofessional conduct before this court."

19. The court fined respondent $500, and ordered that she be fined $250 for each future document she filed in defiance of the extant court order.

III. RECOMMENDATION AS TO WHETHER RESPONDENT SHOULD BE FOUND GUILTY:

My recommendation as to guilt is as follows:

A. Count I: I found the Bar has not proven this Count and would dismiss the same.

B. Count II: By the conduct set forth above, respondent violated R. Regulating Fla. Bar **4-1.1** [A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.]; **4-3.2** [A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.]; **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.]; and **4-8.4(d)** [A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice…].

C. Count III: By the conduct set forth above, respondent violated R. Regulating Fla. Bar **4-3.1** [A lawyer shall not bring or defend a proceeding or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous.]; **4-3.3(a)(1)** [A lawyer shall not knowingly make a false statement of

material fact or law to a tribunal.]; **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.]; **4-4.4(a)** [In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay or burden a third person or knowingly use methods of obtaining evidence that violate the legal rights of such a person.]; **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.]; **4-8.4(c)** [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.]; and **4-8.4(d)** [A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice…].

D. Count IV: By the conduct set forth above, respondent violated R. Regulating Fla. Bar **4-3.4(c)** [A lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.]; **4-3.5(a)** [A lawyer shall not seek to influence a judge, juror, prospective juror, or other decision maker except as permitted by law or the rules of court.]; **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.]; and **4-8.4(d)** [A lawyer shall not engage in conduct in

connection with the practice of law that is prejudicial to the administration of justice…].

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

Based on the foregoing rule violations, I recommend that respondent receive a 90-day suspension from the practice of law, and that she be required to pay The Florida Bar's costs in these proceedings.

I have based my recommendation upon the evidence presented at trial and upon my review of the applicable case law and the applicable *Florida Standards For Imposing Lawyer Sanctions.* The most persuasive evidence is that advanced by the federal bankruptcy judge, who conducted evidentiary hearings and thereafter, determined that respondent had engaged in the grave, and repeated misconduct he carefully outlined in three separate orders. I have taken judicial notice of these orders, and relied upon the facts set forth in these orders, in reaching my determination in this case. I have done this after confirming that the Supreme Court of Florida has made it abundantly clear that a referee in a Florida Bar disciplinary proceeding may consider and rely upon a federal court's order and factual findings. In The Florida Bar v. Shankman, 2010 WL 2680248 (Fla. July 8, 2010), 35 Fla. L. Weekly S445, the respondent challenged the referee's ruling taking judicial notice of a federal district court judge's order and a magistrate's report and recommendation in the respondent's underlying civil action.

Additionally, the respondent contended that the facts in those documents "tainted" the instant proceedings and compromised the referee's independent review of the facts. In rejecting Mr. Shankman's claim, the Supreme Court of Florida noted that:

> [t]he "case law unequivocally supports the referee's taking judicial notice of the federal report and recommendation and order in this bar disciplinary case. *See, e.g., Fla. Bar v. Head*, 27 So. 3d 1 (Fla. 2010); *Tobkin*, 944 So. 2d at 224; *Fla. Bar v. Vining*, 707 So. 2d 670, 672 (Fla. 1998); *Fla. Bar . Calvo*, 630 So. 2d 548, 549-50 (Fla. 1993); *Fla. Bar v. Rood*, 620 So. 2d 1252, 1255 (Fla. 1993). Thus, the referee could properly consider the federal district court's order and magistrate's report and, although not done here, ***the referee cold have relied "upon them as support for the disciplinary findings of fact"*** [emphasis provided]. *Head*, 27 So. 3d at 8.

Shankman, at 2.

The Court relied on this same principle in a case decided a few days earlier: The Florida Bar v. Behm, 2010 WL 2612335 (Fla.), 35 Fla. L. Weekly S419 (Fla. July 1, 2010). In this case involving tax issues, the Court found that the referee properly admitted a North Carolina trial court order into evidence, and considered it in making his findings in the Bar disciplinary case. As indicated in the Shankman citation, *supra*, the Court reached the same conclusion in The Florida Bar v. Head, 27 So. 3d 1 (Fla. 2010). That case is particularly relevant to the instant case because it involved a respondent representing a client in a Chapter 13 bankruptcy case. The referee in that case found that respondent guilty of many of the same rule violations of which Ms. Gwynn is guilty: conduct involving fraud, deceit or misrepresentation; knowingly making a false statement to a third person; conduct

that was prejudicial to the administration of justice; and knowingly making a false statement to the tribunal. In Head, the referee recommended a 60-day suspension, but the Court rejected that finding and suspended respondent for one year. In so doing, I have noted that the Court rejected the respondent's argument that the referee erred (in relying upon the facts established in the underlying bankruptcy proceeding). As did the referee in that proceeding, I have taken judicial notice of the bankruptcy documents offered by The Florida Bar, in reliance on section 90.206(6), Florida Statutes (2009) and The Florida Bar v. Tobkin, 944 So.2d 219 (Fla. 2006).

Accordingly, standing alone, the three sanctioning orders entered by the federal bankruptcy judge on April 26th, May 15th, and June 7th, 2006 are sufficient to meet The Florida Bar's burden of proof as to all charges related to the Walker bankruptcy.

As the Court discussed in The Florida Bar v. Head, *supra*, I am cognizant of the fact that the Supreme Court of Florida imposes significant discipline where a lawyer has engaged in dishonest conduct. The discipline imposed in that case (a one-year suspension), based on the particular facts of that case, falls somewhere in the middle of the range of discipline imposed by the Court in cases involving similar rule violations. At the low end of the spectrum, in The Florida Bar v. Committee, 916 So.2d 741 (Fla. 2005), the Court imposed a public reprimand

where the lawyer knowingly failed to obey the rules of the tribunal (by failing to answer discovery requests), filed two frivolous federal lawsuits, and abused the legal process. In The Florida Bar v. Bloom, 632 So. 2d 1016 (Fla. 1994), the Court imposed a 91-day suspension against a lawyer who failed to comply with the rules of the tribunal (again, through discovery failures), and engaged in conduct prejudicial to the administration of justice. In The Florida Bar v. Broida, 574 So. 2d 83 (Fla. 1991), the Court determined that a one-year suspension was necessary for a lawyer who made misrepresentations to a court, and engaged in ex parte communications with it. In The Florida Bar v. Germain, 957 So.2d 613 (Fla. 2007), the respondent received a 1-year suspension for filing frivolous pleadings in a dispute between himself and a business partner. In a separate case, the respondent was found in contempt. Even harsher discipline was imposed in The Florida Bar v. Hagendorf, 921 So.2d 611 (Fla. 2006), where the lawyer was found guilty of filing a frivolous quiet title action and a number of lawsuits against the state bar in another jurisdiction, the Court determined a two-year suspension was necessary. And at the other end of the spectrum, in a case far more egregious than the one at bar, the Court disbarred the respondent in The Florida Bar v. Klein, 774 So. 2d 685 (Fla. 2000) for forum-shopping, incompetence, knowingly disobeying the rules of the tribunal, filing frivolous pleadings, and engaging in conduct that was dishonest and prejudicial to the administration of justice.

In the case before me, respondent's misconduct was intentional, serious and repeated, despite and in defiance of warnings issued to her, and sanctions imposed against her, by a sitting federal judge. She sat before me and testified that she did this because she believes that the judge was part of an "old boys' club" and because she believes the federal judge was, and is, wrong. Respondent was steadfast in this belief, even after her cause was reviewed, and rejected, on appeal. It is clear that respondent acted, in this bankruptcy case, intentionally, out of personal animus, and without respect for the court. I have also considered the conduct of Respondent in these proceedings including false or reckless allegations against bar counsel during the pending of these proceedings including an unfounded charge that a mediation session was surreptitiously tape recorded, based on nothing more than respondent's notice of a flashing message light on a cell phone,

Accordingly, I believe that respondent is need of a non-rehabilitative suspension of ninety (90) days. In reaching this determination, I have considered the aggravation and mitigation listed herein, and noted her lack of prior discipline and the personal and emotional problems she testified to.

I have considered the followed *Florida Standards for Imposing Lawyer Sanctions* in reaching this recommendation:

Standard 4.5 Incompetence

4.52 Suspension is appropriate when a lawyer engages in an area of practice in which the lawyer knowingly lacks competence, and causes injury or potential injury to a client.

4.53 Public reprimand is appropriate when a lawyer:

a. demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to clients; or

b. is negligent in determining whether the lawyer is competent to handle a legal matter and causes injury or potential injury to a client.

Standard 6.0 Violations of Duties Owed to the Legal System.

6.1 False Statements, Fraud and Misrepresentation

6.12 Suspension is appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action.

6.13 Public reprimand is appropriate when a lawyer is negligent either in determining whether statements or documents are false or in taking remedial action when material is being withheld.

Standard 6.2 Abuse of the Legal Process

6.22 Suspension is appropriate when a lawyer knowingly violates a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

6.23 Public reprimand is appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

Standard 7.0 Violations of Other Duties that a Lawyer Owes, as a Professional:

7.2 Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

7.3 Public reprimand is appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

Based on the foregoing, I am satisfied that a 90-day suspension and payment of The Florida Bar's costs is an appropriate sanction that meets the Court's criteria for attorney discipline: it is sufficient to protect the public from unethical conduct, it has an appropriate deterrent effect, and it is still fair to respondent. The Florida Bar v. Pahules, 233 So. 2d 130, 132 (Fla. 1972).

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

In making this disciplinary recommendation and entering this report, I considered the following personal history and prior disciplinary record of respondent:

A. Personal History of Respondent:

Age: 54

Date Admitted to the Bar: April 26, 1991

B. Prior Discipline: None

C. Aggravating Factors:

Standard 9.2 Aggravation

9.22(b) dishonest or selfish motive;
9.22(c) a pattern of misconduct;
9.22(d) multiple offenses;
9.22(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
9.22(f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
9.22(i) substantial experience in the practice of law (respondent has been a member of The Florida Bar since April 26, 1991);

D. Mitigating Factors:

Standard 9.3 Mitigation

9.32(a) absence of prior disciplinary record;
9.32(c) personal or emotional problems;
9.32(k) imposition of other penalties or sanctions.

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

I find that The Florida Bar has incurred reasonable costs in the matter and that same should be assessed against the respondent:

A.	Grievance Committee Level Costs:	
	1. Court Reporter Costs	$ 392.20
	2. Bar Counsel Travel Costs	$ - 0 -
B.	Referee Level Costs:	
	1. Court Reporter Costs	$ 3,781.05
	2. Bar Counsel Travel Costs	$ 329.49
C.	Administrative Costs	$ 1,250.00
D.	Auditor Costs	$ - 0 –

E. Miscellaneous Costs:

1.	Expert Witness Fee (Patrick Scott, Esq.)		
	Trial preparation	$8,266.50	
	Trial	2,178.00	
	Meeting with Bar Counsel	1,138.50	
	Trial costs (parking, etc.)	10.00	
	Westlaw and Pacer costs	48.42	
	File and docket review	990.00	
	Photocopies	64.00	$12,695.42
2.	Investigator Costs		$ 553.61

TOTAL COSTS **$19,001.77**

It is recommended that the foregoing costs be charged to respondent, with statutory interest until paid in full. If this cost judgment is not satisfied within thirty days of the Court's order in this case, 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 _____ day of _____, 2010.

_____

JOHN B. BOWMAN, Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to THE HONORABLE THOMAS D. HALL, Clerk, Supreme court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927, and that copies were mailed by regular mail to the following: Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300; and LORRAINE CHRISTINE HOFFMANN, Bar Counsel, The Florida Bar, Lakeshore Plaza II, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323, and to Brett Alan Geer, Counsel for Respondent, 3837 Northdale Boulevard, #350, Tampa, Florida 33624 on this _____ day of _____, 2010.

_____
JOHN B. BOWMAN, Referee

j:\users\lhoffman\rr\gwynn, mary alice ror.doc