

**IN THE SUPREME COURT OF FLORIDA**  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

PETIA DIMITROVA KNOWES,

Respondent.

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Supreme Court Case  
No. SC10-1019

The Florida Bar File  
No. 2010-50,414(11A)

**REPORT OF REFEREE**

**I. SUMMARY OF PROCEEDINGS:**

Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by Rule 3-7.6 of the Rules Regulating The Florida Bar, consideration of this cause was undertaken. All of the pleadings, notices, motions and orders are forwarded with this report and the foregoing constitute the record in this case.

The following attorneys appeared as counsel for the parties:

On behalf of The Florida Bar: Daniela Rosette  
The Florida Bar  
444 Brickell Avenue  
Suite M-100  
Miami, Florida 33131

On behalf of Respondent: *Pro se*

## **II. FINDINGS OF FACT:**

### **A. Jurisdictional Statement:**

The Respondent is, and was at all times material herein, a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

### **B. Narrative Summary of Case and Facts:**

On June 3, 2010, The Florida Bar served its Complaint and Request for Admissions upon Respondent at her record Bar address by certified mail, return receipt requested, in accordance with Rule 3-7.11(b) of the Rules Regulating The Florida Bar. Thereafter, on or about July 19, 2010, The Florida Bar served its Interrogatories and Request for Production of Documents upon Respondent. Respondent failed to provide her answers to The Florida Bar's Interrogatories and Request for Production of Documents by the deadline of August 18, 2010, and consequently, The Florida Bar filed a Motion to Compel discovery.

On or about September 3, 2010, following a telephonic hearing where both parties were present, this Referee entered an Order granting The Florida Bar's Motion to Compel and ordering Respondent to provide responses to The Florida Bar's Interrogatories and Request for Production of Documents within twenty (20) actual days of the date of the Order or she would be precluded from introducing

any documentary or testamentary evidence, including herself, as to either guilt or discipline, at the final hearing in this cause. Respondent failed to provide discovery responses within the time set out in the Order. Nevertheless, this Referee allowed Respondent to present her testimony at the final hearing, as well as the testimony of David Fritz, her assistant, and an affidavit from an immigration expert, regarding the allegations that she had failed to act with diligence in her client's immigration case. Additionally, this Referee allowed Respondent to introduce two affidavits from character witnesses as to mitigation.

The following facts are the findings of fact made by the undersigned Referee:

1. Sometime in 2007, Daniela Sere ("Sere") retained Respondent to assist her with various immigration matters, including a request for political asylum.
2. On or about July 6, 2007, at a scheduled hearing before the Immigration Court, Sere was arrested based on her prior conviction for Grand Theft in Broward County Court. In response, Respondent filed a Motion to Reopen Deportation Proceedings with the Immigration Court.
3. The Immigration Court requested that Respondent provide supplemental affidavits in support of the Motion to Reopen on multiple occasions,

but Respondent failed to comply until September 10, 2007.

4. Although this Referee recognizes that as part of its Order granting Sere's Motion to Reopen, the Immigration Court specifically noted that Respondent had failed to timely file the requested supplemental information and filed insufficient affidavits, Respondent's testimony and the affidavit from her immigration expert, Chuck Kuck, a former president of the American Immigration Lawyers Association, establish that Respondent was diligent both in the case in general, and more specifically, during the relevant time period, in attempting to obtain affidavits that would be legally sufficient as needed to have the case reopened. Moreover, Respondent was ultimately successful in reopening her client's immigration case. Consequently, I do not find that Respondent failed to act with diligence, in violation of Rule 4-1.3 (diligence) of the Rules Regulating The Florida Bar, in her client's immigration case.

5. On or about January 29, 2009, just four (4) days before a subsequent hearing before the Immigration Court, Respondent filed a Motion to Withdraw as attorney of record. As a basis for her Motion, Respondent asserted that Sere had written her a bad check for \$1,000 on July 25, 2008, and that she had been unsuccessful in convincing Sere to honor the check, despite multiple attempts to do so.

6. Although Respondent inferred to the Immigration Court as part of her Motion that the uncollected funds pertained to the pending immigration matter, such monies were in fact related to a prior automobile accident case in which Respondent had first represented Sere, as evidenced by Respondent's own billing statement.

7. As part of her Motion to Withdraw, Respondent further asserted that her office had "received many, many reports from members of the Romanian community that [Sere] ha[d] robbed them as well." Respondent further indicated that she "regret[ted] having helped [Sere] who in reality was rightfully convicted by the State of Florida for grand theft." Finally, Respondent asserted that Sere would not be prejudiced by her withdrawal from the representation.

8. Upon learning of Respondent's efforts to withdraw from the representation, Sere visited Respondent at her office. At that time, Respondent indicated that she would only attend the hearing before the Immigration Court if Sere paid her an additional \$1,500.

9. Sere ultimately agreed to pay Respondent \$3,000, and Respondent agreed to withdraw her Motion to Withdraw. Respondent proceed to file a Notice of Cancellation of Motion to Withdraw Representation as Attorney, where she now asserted that because of the "short notice, just several days before her

individual hearing, [Sere would] be prejudiced by [Respondent's] withdrawal from legal representation.”

10. In or about April 2009, Sere ultimately decided to retain new counsel. At that time, Respondent filed a second Motion to Withdraw. Rather than asserting that she was seeking to withdraw from the representation because Sere had retained new counsel, Respondent again asserted in her Motion that she had “received further reports from the Romanian community that [Sere] ha[d] willfully and intentionally failed to comply with her contractual promises towards parties” and repeatedly “refused to pay for fulfilled work assignments and/or ha[d] taken money and never delivered the contracted services.”

11. Although this Referee recognizes that Respondent made inconsistent statements in her pleadings regarding the potential prejudice to her client by her withdrawal from the case, I do not find these statements in themselves to establish by clear and convincing evidence conduct involving dishonesty or lack of candor toward the tribunal. Consequently, I do not find that Respondent violated Rules 4-3.3 (candor toward the tribunal) and 4-8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules Regulating The Florida Bar.

12. With respect to the disparaging comments contained in Respondent's Motions regarding her client's character, however, I do find it “inconceivable ...

that anybody with any knowledge of the rules of ethics” would suggest “that in a motion to withdraw in just about any kind of case [this] kind of comments would be appropriate and would not be in violation or inconsistent with our administration of justice.” I further find that, regardless of intent, the very act of filing such a motion with such language is so prejudicial to the client so as to be actionable. Consequently, I find that Respondent has violated Rule 4-8.4(d) (conduct prejudicial to the administration of justice) of the Rules Regulating The Florida Bar.

13. On or about May 11, 2009, the Assistant State Attorney assigned to Sere’s criminal case sent a letter to an attorney from the Department of Homeland Security, Office of Chief Counsel, advising that she had been contacted by Respondent to inform her that “she ha[d] reason to believe that [Sere] intended to lie to the immigration court at her upcoming hearing.”

14. In her letter to the Department of Homeland Security, the Assistant State Attorney further indicated that she had received paperwork pertaining to Sere’s political asylum case from an unidentified source, sent via priority mail on May 7, 2009. Although the sender of the paperwork was unidentified, political asylum files are confidential in nature and not available to the public, and the only person known to be in possession of such paperwork was Respondent.

15. Although this Referee was initially troubled by the testimony that Respondent contacted the Assistant State Attorney about a former client, Respondent's testimony is not refuted and sounds credible that this particular client, "who had been through numerous [attorneys] in an effort to avoid deportation," "would say to her own [attorney] that she would do anything including lying in court to avoid ultimately being deported." Additionally, it appears that under the applicable rules an attorney "would have an ethical obligation to report future criminal conduct." Accordingly, I find "there is not clear and convincing evidence to establish that the act of calling the State Attorney would demonstrate a breach of confidentiality under the applicable rules," in violation of Rule 4-1.6 (confidentiality of information) of the Rules Regulating The Florida Bar.

16. Similarly, while it is possible that the package that arrived at the Assistant State Attorney's Office could have been sent by Respondent, "even if [this] was possible or even probable, I do not find the evidence to rise to the level of clear and convincing evidence to establish that Respondent breached her duty of confidentiality.

17. In addition to handling Sere's political asylum case, Respondent had previously represented Sere in an automobile accident case in 2004. Respondent



filed a Notice of Appearance of Counsel in that case on July 23, 2008.

18. On or about September 26, 2008, the court entered an Order to Show Cause, indicating that Sere had failed to appear at mediation on September 25, 2008, and that she had not otherwise been excused by the court. Although Respondent had filed a Motion to Withdraw in the case, said Motion was never granted by the court and Respondent failed to appear at the mediation.

19. Thereafter, on or about January 12, 2009, a final judgment was entered against Sere in the case. Respondent failed to advise Sere that a final judgment had been entered against her, despite having been served with a copy of said final judgment.

20. With respect to the allegations that Respondent failed to notify her client of the entry of a final judgment or to attend mediation, the evidence is somewhat in conflict and I am not satisfied that there is clear and convincing evidence that Respondent failed to act with diligence, in violation of Rule 4-1.3 (diligence) of the Rules Regulating The Florida Bar.

### **III. RECOMMENDATION AS TO GUILT:**

Based on the foregoing, I recommend that Respondent be found guilty of Violating **Rule 4-8.4(d) (conduct prejudicial to the administration of justice)** of The Rules Regulating The Florida Bar.

**IV. FLORIDA STANDARDS FOR IMPOSING LAWYER SANCTIONS:**

I considered the following standards prior to recommending discipline:

- Standard 4.22
- Standard 6.12
- Standard 6.22
- Standard 7.2

**V. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE**

**APPLIED:** I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that she be disciplined by:

- A. Ninety (90) Day Suspension
- B. Additionally, Respondent shall attend The Florida Bar's Ethics School within six (6) months after entry of the Supreme Court Order in this cause.

Respondent shall also attend The Florida Bar's Professionalism Workshop within six (6) months after entry of the Supreme Court Order in this cause.

**VI. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:**

Prior to recommending discipline pursuant to Rule 3-7.6(k)(1), I considered the following:

- A. Personal History of Respondent:

Age: 42

Date admitted to The Florida Bar: April 22, 2005

Prior Discipline: None

B. Factors Considered in Aggravation:

- 9.22(c) (a pattern of misconduct);
- 9.22(d) (multiple offenses); and
- 9.22(h) (vulnerability of victim)

Additionally, pursuant to *The Florida Bar v. Bustamante*, 662 So.2d 687 (Fla. 1995), where the Supreme Court concluded that pending cases can be considered in aggravation, this Referee finds the fact that Respondent is the subject of another disciplinary matter that is currently on appeal in Supreme Court Case No. SC09-403, which involves similar findings that Respondent engaged in conduct prejudicial to the administration of justice, to be a further aggravating factor.

C. Factors Considered in Mitigation:

- 9.32(a) (absence of prior disciplinary record)

**VII. STATEMENT OF COSTS:** I find that pursuant to Rule 3-7.6(q) of the Rules of Discipline, reasonable costs are to be awarded to The Florida Bar as the prevailing party in this disciplinary proceeding. The amount to be assessed against Respondent shall be determined by the undersigned following a further submission by The Florida Bar regarding its taxable costs.

Dated this \_\_16\_ day of \_December\_\_\_\_\_, 2010.

\_\_\_\_\_/s/\_\_\_\_\_  
**HONORABLE BARRY M. COHEN**  
Referee

Copies to:

Petia Dimitrova Knowles, Respondent

Daniela Rosette, Bar Counsel

Kenneth Lawrence Marvin, Staff Counsel