

Mediator Qualifications Board
Central Division

In Re: Bruce Morosco

Case Number: QCC 2010-048j

Panel: The Honorable Theotis Bronson, Chair
 Heather Blanton
 Stephanie Buck
 Marva Carter
 Kimberly Rodgers

Advisor to the Panel: Irv J. Lamel, Esq.

APPEARANCES

Prosecutor: Melvia B. Green, Esq.

Mediator: Bruce Morosco
 Neither Mr. Morosco nor his counsel appeared

Also Present: Janice Fleischer, Esq., Director of DRC
 Leonard Helfand, Esq., Staff Attorney

DECISION INCLUDING FINDINGS AND CONCLUSIONS OF THE PANEL

The Mediator Qualifications Board, Central Division, by its duly designated five-member panel, held a formal hearing in this matter on January 19, 2012.

FORMAL CHARGES

The Mediator fails to possess good moral character as required by Rule 10.110 for continued certification as a circuit, family and county mediator, and for certification as an appellate mediator.

SUMMARY OF FACTS

Based on the oral and documentary evidence presented at the hearing, which is un rebutted, the Hearing Panel makes the following findings:

1. The mediator appeared to engage in a pattern of acts, sometimes violent, that were intended to intimidate his ex-wife, Tina Marshall, during and after the marriage.
2. In December, 2008, he threw a plate at her head during an argument.
3. In January, 2009, he took away her cell phone, smashed it and threw the pieces in the swimming pool. He commented that it was his house, his cell phone plan and she had to do what he said. When he left the house the next morning, he took with him all the telephones in the house and the cable box.
4. Another time, he commented that he is vengeful and knew people in Pittsburgh who could hurt people.
5. In May, 2009, he served her with papers for dissolving their marriage and told her she had 3 days to move out. She did move out and rented a house in the area but did not tell him the address. At his request, she subsequently met with him and he told her, in essence, that he knew where she was living and was surprised that she thought she could keep secrets from him.
6. In an attempt to reconcile, the parties attended a marriage seminar and received stuffed animals intended to represent each person's communications style. During the period that they reunited and began living together while attempting reconciliation, he placed his stuffed animal on top of her stuffed animal and stuck a hypodermic needle in her stuffed animal, and left them on her dresser.
7. On some occasions he blocked the doorway of the room she was in and, on at least one occasion, he grabbed her by the shoulders and shook her forcefully.
8. After she moved out of the house and to an undisclosed address, she received envelopes with the mediator's return address, containing blank papers, and addressed to her at her former address but forwarded to her because the address indicated "address correction requested". The Postmaster told her that that was a way for someone to discover her new address because the envelope should have been sent back to the return address, which was the mediator's address. By mistake, it was forwarded to her.
9. While she lived at the undisclosed address, her landlord received an anonymous letter accusing her of various false, unsavory and criminal activities, and indicating that something should be done before "someone gets hurt." She also received mail for the mediator at this address despite the fact that he never lived there. She never disclosed that address to him or gave him permission to use the address.
10. In February, 2010, she obtained a Final Injunction Against Domestic Violence, which was affirmed on appeal.
11. In June, 2010, Tracy Marshall, the ex-wife's twin sister, found the mediator parked in front of her home, a home where Tina Marshall, the recipient of the injunction, regularly stayed on weekends.
12. As a result of the mediator being near that house, he was arrested and charged with violating the domestic violence injunction. He was referred to a pretrial diversion

program, which he completed, and the criminal charge was nolle prossed.

Based on the foregoing findings of fact, the Hearing Panel concludes as follows:

CONCLUSIONS OF LAW

13. The hearing was appropriately and timely scheduled, and the Mediator received proper notice of the hearing, and the time and place of the hearing.
14. The Mediator had the opportunity to be heard on the allegations contained in the Formal Charges.
15. The Mediator failed to appear at the duly scheduled hearing.
16. The Mediator offered to withdraw his application for certification as an appellate mediator in order to negotiate the dismissal of the charges. The withdrawal was not accepted by the Dispute Resolution Center and was not accepted by the Hearing Panel, and therefore, it does not divest the Hearing Panel of jurisdiction.
17. Rule 10.700 defines the scope and purpose of the Rules for Certified and Court Appointed Mediators:

Rule 10.700 Scope and Purpose

These rules apply to all proceedings before all panels and committees of the mediator qualifications board involving the discipline or suspension of certified mediators or non certified mediators appointed to mediate a case pursuant to court rules. The purpose of these rules of discipline is to provide a means for enforcing the Florida Rules for Certified and Court Appointed Mediators.

The rule makes clear that the rules govern both certified and non-certified mediators and, therefore, a withdrawal of the application, if effective at all, does not prevent the Hearing Panel from proceeding with the hearing.

18. Rule 10.710 provides that certification as a mediator is a revocable privilege:

Rule 10.710 Privilege to Mediate

Certification to mediate confers no vested right to the holder thereof, but is a conditional privilege that is revocable for cause.

19. Rule 10.820(i) provides that the hearing shall proceed in the absence of the Mediator without good cause:

Rule 10.820 Hearing Procedures

(i) Mediator's or Applicant's Absence. If the mediator or applicant fails to appear, absent a showing of good cause, the hearing shall proceed.

20. The Mediator emailed a letter to the panel members and the Dispute Resolution

Center after the time the panel hearing was scheduled to begin. The letter did not show good cause for the Mediator's absence and the Rule is mandatory that the Hearing Panel proceed.

21. The Hearing Panel has jurisdiction to proceed with the hearing in the absence of the Mediator.
22. Rule 10.110 provides the standards by which to judge whether the Mediator has the good moral character required to be a certified mediator:

Rule 10.110 Good Moral Character

(a) General Requirement. No person shall be certified by this Court as a mediator unless such person first produces satisfactory evidence of good moral character as required by rule 10.100.

(b) Purpose. The primary purpose of the requirement of good moral character is to ensure protection of the participants in mediation and the public, as well as to safeguard the justice system. A mediator shall have, as a prerequisite to certification and as a requirement for continuing certification, the good moral character sufficient to meet all of the Mediator Standards of Professional Conduct set out in rules 10.200-10.690.

(c) Certification. The following shall apply in relation to determining the good moral character required for initial and continuing mediator certification:

(1) The applicant's or mediator's good moral character may be subject to inquiry when the applicant's or mediator's conduct is relevant to the qualifications of a mediator.

...

(4) In assessing whether the applicant's or mediator's conduct demonstrates a present lack of good moral character the following factors shall be relevant:

- (A) the extent to which the conduct would interfere with a mediator's duties and responsibilities;
- (B) the area of mediation in which certification is sought or held;
- (C) the factors underlying the conduct;
- (D) the applicant's or mediator's age at the time of the conduct;
- (E) the recency of the conduct;
- (F) the reliability of the information concerning the conduct;
- (G) the seriousness of the conduct as it relates to mediator qualifications;
- (H) the cumulative effect of the conduct or information;
- (I) any evidence of rehabilitation;
- (J) the applicant's or mediator's candor; and

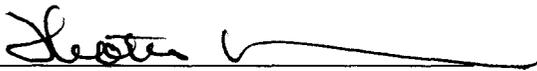
(K) denial of application, disbarment, or suspension from any profession.

23. The Mediator lacks the good moral character required by Rule 10.110, as shown by his pattern of intimidation of his wife during and after the period of their marriage, his activities which led to the issuance against him of the injunction against domestic violence, and his violation of the injunction.

DISPOSITION

That there is clear and convincing evidence that Bruce Morosco fails to possess good moral character as required by Rule 10.110, as demonstrated in the above factual summary. Therefore, the Panel imposes the following sanctions:

1. The application for appellate mediation by the Mediator, Bruce Morosco, is denied.
2. The Mediator, Bruce Morosco, is decertified as a circuit, family and county mediator and may not be reinstated as a certified mediator for a period of at least three (3) years pursuant to Rule 10.830 (i) and its requirements.
3. This Decision shall be published.
4. This Decision shall be disseminated to the Chief Judge of every Circuit, the Court Administrator of every Circuit, and any other entity or person the Dispute Resolution Center deems appropriate for protection of the consumers of mediation services and the general public.
5. Costs are awarded to the Dispute Resolution Center and taxed against Bruce Morosco in an amount to be determined based on the submission of an affidavit of costs incurred.
6. Jurisdiction is reserved for entry of further orders as may be necessary.


Theotis Bronson, Circuit Judge
Hearing Panel Chair


Date