MEDIATOR QUALIFICATIONS BOARD
Southern Division

In Re: Les Paul Sternberg, Applicant Case Number: QCC2011-58

Panel: The Honorable Rodney Smith, Chair
Lawrence Saichek
Oscar Franco
Valerie Kiffin-Lewis
Jeffrey H. Savlov

Advisor to the Panel: Yale T. Freeman, Esq.

APPEARANCES

Prosecutor: Irv J. Lamel, Esq.

Applicant: Les Paul Sternberg

Also Present: Janice Fleischer, Esq., Director of DRC

DECISION INCLUDING FINDINGS AND CONCLUSIONS OF THE PANEL

The Mediator Qualifications Board, Southern Division, by its duly designated five-member panel, held a formal hearing in this matter on February 13, 2013.

FORMAL CHARGES

The Applicant fails to possess good moral character as required by Rule 10.110, Florida Rules for Certified and Court Appointed Mediators, for Certification by the Florida Supreme Court as a circuit mediator.

HEARING

The hearing was commenced and during the course of the proceedings, the Prosecutor admitted:

Exhibit 1 - Application For Mediator Certification
Exhibit 2 - Transcription of audio tape recordings of January 8, 2002
Exhibit 3 – Statement of Elizabeth Ann Sternberg – January 15, 2002

In addition to the exhibits set forth above, the parties entered into an additional stipulation that the applicant resigned from the Florida Bar in lieu of disciplinary proceedings being initiated against him.

The following individuals provided testimony on behalf of the Applicant:

1. Amarilis Acevedo
2. Susan Sternberg
3. Les Paul Sternberg

SUMMARY OF FACTS

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

1. In June, 1994, the Applicant was charged with Grand Theft in Broward County, Florida, pursuant to Case No. 94-10552-CF-10. The allegations pertaining to that matter were that the Applicant, as an attorney, misappropriated money from his Trust Account in the amount of $90,000.00. The Applicant entered into a Plea Agreement in which he was placed on 10 years probation with a requirement of full restitution. Adjudication of Guilt was withheld.

2. In March, 1995, additional charges were brought against the Applicant in Broward County, Florida pursuant to Case No. 95-4263-CF-10. The allegations in that case arose from the allegation arising once again of misappropriation of money from the Trust Account. The amount involved there was $24,000.00. The Applicant entered into a Plea Agreement which called for 10 years probation, full restitution and the sentence in this matter would run concurrent with the matter in Case No. 94-10552-CF-10.

3. In November/December, 2001, the Applicant was charged with Grand Theft in Broward County, Florida pursuant to Case No. 01-20757-CF-10. The amount involved in this matter was $50,773.00. The Applicant was also charged with a probation violation based upon the arrest in this new matter while still on probation in Case Nos. 94-10552-CF-10 and 95-4263-CF-10.

4. In January, 2002, while the Applicant remained in custody in the Broward County jail, he was charged with extortion by threat and tampering with a witness-victim to wit, his ex-wife, Elizabeth Sternberg pursuant to Case No. 02-14679-CF-10.

The basis of the charge centered on the Applicant's conversations and letters to his ex-wife regarding IRS tax obligations and the custody of a minor child. Applicant wanted his ex-wife to indicate to the prosecutor that she did not wish to prosecute or be a witness in the case and if she failed to do so, he would report the tax-related matter to the Internal Revenue Service, she would be arrested, charged with crimes, and lose custody of a minor child in her care. In this matter, Count One of Extortion was nolle prossed and Count Two, the Defendant pled guilty to tampering with a witness, and was sentenced to 364 days in custody and placed on 5 years probation.

5. As it related to the outstanding Case Nos. 94-10552-CF-10 and 95-4263-CF-10 and 01-20757-CF-10, Applicant was sentenced in conjunction with 02-14679-CF-10, to an adjudication of guilt, 364 days in the Broward County jail followed by one year of community control, 5 years probation plus restitution in the amount of $50,773.00 with any balances of restitution owed out of Case Nos. 94-10552-CF-10 and 95-4263-CF-10.

6. The Applicant fulfilled the custodial obligations of his sentence, completed payment of all restitution, completed community control and his probation. The Applicant's probation was terminated on March 29, 2006 with all matters with which the Applicant had been previously charged being closed and otherwise terminated.

7. The Applicant was admitted to practice law in the State of Florida in 1981. Based upon Trust Account violations dealing directly with those cases in which the Applicant was arrested and charged, there was an Order of Emergency Suspension entered by the Supreme Court of Florida in 1993. In lieu of disciplinary proceedings, the Supreme Court of Florida granted a Petition for Resignation and the Order in that regard was dated May 26, 1994. The Applicant ceased to be a member of The Florida Bar.

8. The Applicant applied for a restoration of civil rights and the Office of Executive Clemency in the State of Florida issued a Certificate of Restoration of Civil Rights on March 28, 2008.

9. The Applicant is presently married to Amarilis Acevedo who testified at the proceedings. Ms. Acevedo testified that it was her belief, although she did not know the Applicant prior to

June, 2003, he has changed and the change is legitimate. The Applicant has paid his dues.

10. Susan Sternberg, one of the Applicant's ex-wives, was likewise called to testify. She, too, believed that the Applicant was entitled to a second chance. She indicated she was not capable of making a judgment as to the facts involved in Applicant's criminal history. She indicated that she has only seen the Applicant a handful of times but based upon this limited contact, usually in the presence of family members, that he would make a good mediator.

11. No unbiased witnesses were called by the Applicant as it relates to his present employment, his level of trustworthiness, nor was any additinal information provided by the Applicant through third parties as it pertained to the Applicant's good moral character.

12. The Applicant testified. Through that testimony the following facts were elicited and constitute findings as follows:

    a. That contrary to what was contained in the Application For Certification, the Applicant has indicated, "I am kept honest by the three-strike rule."

    b. That he will do mediation whether or not he is certified.

    c. That he seeks certification so that he has a governing board that would monitor and control him.

    d. That "theft" was his drug of choice.

13. Applicant has not sufficiently demonstrated rehabilitation nor could Applicant point to any activities that he is engaged in that would show his amends for his criminal conduct other than the completion of the sentence imposed by the Court.

14. The review of the transcript of the tape recordings of January 8, 2002 (Exhibit 2) and the statement of Elizabeth Ann Sternberg (Exhibit 3) establish Applicant's willingness to utilize threats and coercion as part of an effort to circumvent the system and to cause injury to third parties in order to advance his own cause (See Summary of Facts Paragraph 4). This is particularly important as "self determination" is the cornerstone of mediation and his corruption of the

process through the charges of extortion and witness tampering flies in the face of "self determination."

FINDINGS

Based on the foregoing Findings of Fact, the Hearing Panel concludes as follows:

1. That the hearing was appropriately and timely scheduled and that the Applicant received proper notice of the hearing.

2. The Applicant had the opportunity to be heard on allegations contained in the Formal Charges and had the opportunity to present witnesses on his behalf.

3. That the Hearing Panel proceeded with the hearing accepted evidence, took stipulations and heard testimony.

4. Rule 10.110 provides the general requirement that no person shall be certified as a mediator unless such person first produces satisfactory evidence of good moral character as required by Rule 10.100.

   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) 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.

The Applicant has failed to produce satisfactory evidence of good moral character as required by Rule 10.100 and that this failure to produce satisfactory evidence is determined pursuant to the standard of preponderance of the evidence. The evidence fails to show the Applicant possesses good moral character.

DISPOSITION

The Panel imposes the following sanctions:

1. That the Application For Mediator Certification is denied.
2. This decision shall be published.
3. This decision shall be disseminated to the Chief Judge of every circuit, the Court Administrator of every circuit and any other entity or person that the Dispute Resolution Center deems appropriate for the protection of consumers of mediation services and the general public.
4. Costs are awarded to the Dispute Resolution Center and taxed against the Applicant in an amount to be determined based on the submission of an Affidavit of Costs Incurred.

5. Jurisdiction is reserved for the entry of further orders as may be necessary.

The Honorable Rodney Smith, Chair

3/22/13

Date