

MEDIATOR QUALIFICATIONS BOARD
Southern Division

In Re: Miriam L. Mendieta, Case Number: QCC2014-027

Panel: The Honorable Rodney Smith, Chair
 Kimberly Mann, Esq.
 Regina Zelonker, Esq
 Hal Wotitsky, Esq.
 Jeanne Potthoff

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

APPEARANCES

Prosecutor: Robert Ostrov, Esq.

Respondent: Miriam L. Mendieta

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 August 14, 2015.

FORMAL CHARGES

The Respondent 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 and Respondent failed to report her suspension from The Florida Bar as required by Rule 10.800(b)(1), Florida Rules for Certified and Court Appointed Mediators.

HEARING

The witnesses were Janice M. Fleischer, Director of the Dispute Resolution Center, and Respondent, Miriam L. Mendieta.

The following exhibits were admitted into evidence:

Exhibit A – Florida Bar News Disciplinary Actions column, date April 15, 2014 - 1 page.
(Admitted without objection)

Exhibit B – Application for Mediator Certification Renewal, dated received January 11, 2013 - 4 pages. (Admitted over objection)

Exhibit C – Correspondence from Respondent, dated May 8, 2014, with attachments - 12 pages. (Admitted without objection)

Exhibit D - Correspondence from Respondent, dated September 26, 2014, with

attachment - 2 pages. (Admitted without objection)

FINDINGS OF FACT

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

1. The Respondent was a certified circuit mediator who applied for renewal on January 11, 2013.

2. Respondent was also an attorney and member of The Florida Bar who was suspended from the practice of law for 90 days by the Supreme Court of Florida on February 10, 2014, pursuant to a conditional guilty plea and consent judgment. The basis of the suspension, conditional guilty plea and consent judgment was the Respondent's failure to properly and adequately supervise the lawyers under her supervision while she worked at the Law Offices of David J. Stern, P.A.. No evidence was presented of any specific individual misconduct on Respondent's part.

3. Respondent has been reinstated as a member of The Florida Bar.

4. Respondent's Application for Mediator Certification Renewal (Exhibit B) provided notice to the Respondent that she was required to provide the Dispute Resolution Center with information regarding any change in status of a professional license within 30 days of such an event and by her signature she swore or affirmed that she would comply. In addition, Rule 10.800 (b)(1) requires a certified mediator to inform the Dispute Resolution Center of the change in status of a professional license within 30 days of such change. Respondent was required to notify the Dispute Resolution Center of her suspension from The Florida Bar within 30 days.

5. Respondent did not notify the Dispute Resolution Center of her suspension until the Dispute Resolution Center contacted her after reading about her suspension in the Florida Bar News Disciplinary Actions column. (Exhibit A).

6. Respondent acknowledged her responsibility to report her Florida Bar suspension and her failure to do so, and cooperated by providing the information and documents when they were requested from her.

CONCLUSIONS

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

- A. Count 1 alleging that Respondent fails to possess good moral character due to her failure to properly and adequately supervise the lawyers under her supervision

while she worked at the Law Offices of David J. Stern, P.A., which led to her suspension from The Florida Bar, was not proven.

- B. Count 2 alleging that Respondent fails to possess good moral character due to her failure to report her suspension from The Florida Bar to the Dispute Resolution Center within 30 days was not proven.

- C. Count 3 alleging that Respondent failed to report her suspension from The Florida Bar to the Dispute Resolution Center within 30 days as required by Rule 10.800(b)(1) was proven.

- D. Respondent is admonished by this written reprimand to read and be familiar with the rules for all licenses and certifications which she holds and comply with them.

- E. The Dispute Resolution Center is awarded costs which are shown to be reasonable and justified, such costs to be determined by the Panel Chair, The Honorable Rodney Smith. The Dispute Resolution Center shall submit its motion and affidavit for such costs within 30 days of the date of this Decision.



The Honorable Rodney Smith, Chair

August 28, 2015

Date

Disciplinary Actions

Prepared by The Florida Bar's Public Information and Bar Services Department

The Florida Bar News/April 15, 2014-23

2011, and continued to practice law. (Case No. SC12-2734)

Corinda Lynn Luchetta, P.O. Box 7557, St. Petersburg, suspended for 91 days effective 30 days from a February 21 court order. (Admitted to practice 1999) Luchetta has displayed a pattern of misconduct. Most recently, she failed to file answers to the bar regarding a complaint alleging she entered a marital agreement without consent and made it applicable to the court. The client had signed the agreement before a notary. Luchetta was suspended for 15 days with conditions of probation until 2008 in part for failing to respond to the bar in five out of seven cases. (Case No. SC13-637)

Juan Carlos Martinez, 1221 Brickell Ave., Suite 1650, Miami, to be publicly reprimanded following a February 18 court order. Further, Martinez shall pay restitution of \$11,240.25 to one client. (Admitted to practice 1994) Martinez engaged in a conflict of interest by providing legal services to a client who was being sued by a former client. (Case No. SC13-2819)

Raimon Estel Melendez, P.O. Box 720057, Orlando, permanently disbarred, effective immediately, following a February 21 court order. Further, Melendez shall pay restitution of more than \$24,000 to five clients. (Admitted to practice 2000) Melendez abandoned his law practice and misappropriated client funds. (Case No. SC13-1316)

Miriam E. Mendler, 7310 Biscayne Blvd., Miami, suspended for 90 days effective 30 days from a February 10 court order. (Admitted to practice 1990) As a supervising attorney for the law Offices of David Stein, P.A., Mendler failed to exercise her authority to ensure that the actions of those she managed complied with Florida Bar Rules. Her actions included: failure to Bar file ethics actions; inclusion of attorney's fee statements in pleadings in court; attorney's she supervised to appear in court for a client; and failure to supervise the preparation of mortgage deed copies filed and recorded in the files of documents that were

improperly notarized, witnessed, or dated. (Case No. SC13-2405)

Timothy England Moffitt, 1570 Shadowlawn Drive, Naples, to receive a public reprimand to be administered by the Board of Governors, following a March 10 court order. Further, Moffitt shall pay restitution of \$1,000 to one client. (Admitted to practice 2002) A client believed that Moffitt would handle an appeal for a flat fee, but the nonrefundable nature of the fee was not put in writing and no notice of appeal was filed in a timely manner. Also, Moffitt became distinguished for failure to report continuing legal education credits by August 31, 2012. He was notified of his delinquency in October 2012, and thereafter continued to have discussions with prosecutors regarding pending matters. When he appeared at a hearing, a presiding judge was aware of the delinquency and did not proceed. (Case No. SC13-2018)

Jason Royce Mosley, P.O. Box 12662, Pensacola, suspended for 30 days effective 30 days from a February 18 court order. Further, upon reinstatement, Mosley is placed on probation for two years. (Admitted to practice 2000) After taking a job with a new law firm, Mosley signed an agreement not to take on outside employment without company permission. Mosley was subsequently reemployed when the firm learned he had handled legal matters in which flat fees were paid by the clients to him rather than the firm. (Case No. SC13-1201)

Charles Louis Neustein, 777 Arthur Godfrey Road, Floor 2, Miami Beach, the Supreme Court granted Neustein's request for a disciplinary revocation, effective immediately following a February 10 court order, with leave to seek readmission after one year. (Admitted to practice 1968)

Disciplinary Revocation is an amount of disbarment. Neustein had a complaint pending alleging misconduct involving disbarment, a decedent's estate, and a disciplinary revocation. (Case No. SC13-2096)

Suite 401, Miami, to be publicly reprimanded following a February 10 court order. Further, Pila shall pay restitution of \$3,000 to one client. (Admitted to practice 1997) Pila was retained by a client to recover \$60,000 lost as part of a mortgage investment. He failed to take significant action in the case or pursue the claim. He also failed to stay in contact and continuously failed to communicate with the client. The client, subsequently retained new counsel. When the client requested a copy of his file, Pila took more than a month to provide it. (Case No. SC13-2262)

Michael J. Scaglione, 2600 S. Douglas Road, Ph. 10, Coral Gables, The Supreme Court granted Scaglione's request for a disciplinary revocation, effective immediately following a March 10 court order, with leave to seek readmission after five years. (Admitted to practice 1999) Disciplinary revocation is tantamount to disbarment. Scaglione had several disciplinary actions pending, including one stemming from a guilty plea in federal court to money laundering. (Case No. SC14-76)

Jorge Luis Suarez, 5735 S.W. 8th St., Suite 101, Coral Gables, suspended for 91 days, effective 30 days from a March 10 court order. (Admitted to practice 1990) In 1997, Suarez began executing attorney fee affidavits for foreclosure cases at the David L. Steinlaw firm as an independent contractor. A witness, a number of affidavits processed by Suarez from 2007 to 2010 were not executed by him in the presence of a notary. On more than one occasion, Suarez executed an expert affidavit without reviewing the pertinent file. (Case No. SC14-253)

Randall Norman Thornton, P.O. Box 58, Lake Hammock, the Supreme Court granted Thornton's request for a disciplinary revocation, effective immediately following a February 18 court order, with leave to seek readmission after five years. (Admitted to practice 1974) Disciplinary revocation

complaint pending involving allegations of trust account violations. (Case No. SC13-2236)

Richard Gregory Toledo, 205E 18th Ave #10th, Miami, suspended for 91 days effective 30 days from a March 10 court order. (Admitted to practice 1982) Toledo began executing attorney fee affidavits for foreclosure cases at the David L. Steinlaw firm as an independent contractor in 2007. An unknown number of affidavits processed by Toledo during that time were not executed by him in the presence of a notary. On more than one occasion, Toledo executed an expert affidavit without reviewing the pertinent file. (Case No. SC14-253)

Moses Eugene Williams, 2510 Mercedes Road, Suite 104, Tallahassee, suspended for 45 days, effective 30 days from a February 14 court order. Further, upon reinstatement, Williams is placed on probation for 18 months. (Admitted to practice 1984) A client paid Williams \$5,000 for press releases in a wrongful termination case. One month later, the former employer filed a motion to dismiss. With the motion unanswered and pending before the court, Williams filed a motion to withdraw because the client was unable to pay any additional fees for his services. Whether improperly, his ill-fiduciary client for his motion to withdraw, and his response to the Bar regarding her complaint about him. In addition, Williams was found in contempt of court for a second time for failure to pay child support. He was sentenced in court to 60 days jail and a purge amount of \$5,000. (Case No. SC12-2287)

Goal orders are not filed until the date of a hearing on a goal order and stipulated. Determining the filing date of a goal order does not alter the hearing date of the discipline. Disbarred attorneys and a notary apply for admission for the next year. They are required to go through an extensive process that requires many who apply. It includes a rigorous background check and retains the bar exam. Historically, less than 5 percent of disbarred

attorneys are reinstated. The bar exam is a rigorous process that requires many who apply. It includes a rigorous background check and retains the bar exam. Historically, less than 5 percent of disbarred