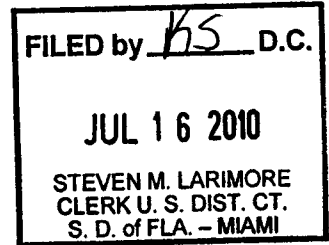


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2010-63

IN RE: ORDER OF RECIPROCAL  
DISBARMENT OF ATTORNEY  
STUART L. STEIN  
FLORIDA BAR # 235563

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**ORDER OF RECIPROCAL DISBARMENT**

This matter is before the Court concerning the status of Stuart L. Stein as a member of the bar of the Southern District of Florida. On February 20, 2008, Mr. Stein was disbarred by the Supreme Court of New Mexico in a thorough opinion detailing numerous violations of the New Mexico Rules of Professional Conduct. *In the Matter of Stein*, 143 N.M. 462 (2008). Mr. Stein was also disbarred by the Supreme Court of Florida as the result of the above disciplinary action by the Supreme Court of New Mexico. *The Florida Bar v. Stein*, No. SC08-1108, 2010 WL 711847 (Fla. Feb. 26, 2010). The Court likewise precludes Mr. Stein from practicing law in the Southern District of Florida and he is hereby disbarred.

The Supreme Court of New Mexico found that Mr. Stein had multiple conflicts of interest with the parties he was representing, engaged in misrepresentations during the course of his representation, misled the court in his actions, and communicated with a party known to be represented by another lawyer without that lawyer's consent, all violations of the New Mexico Rules of Professional Conduct.

"[D]isbarment by federal courts does not automatically flow from disbarment by state courts." *Theard v. United States*, 354 U.S. 278, 282 (1957). Nonetheless, a state court disbarment should be accorded federal effect, unless it appears from an "intrinsic consideration" of the state

record that: (1) the state disbarment proceeding lacked due process; (2) the proof supporting the disbarment by the state court was so infirm as to give a federal court the “clear conviction” that a reciprocal disbarment order is inappropriate; or (3) another grave reason convinces the federal court that the state court disbarment should not give rise to a federal court disbarment, under the principles of right and justice. *Matter of Calvo*, 88 F.3d 962, 966-67 (11th Cir. 1996) (citing *Selling v. Radford*, 243 U.S. 46, 51 (1917)); *see also* Rule 5(e), S.D. Fla. Rules Governing Attorney Discipline (requiring *Selling*-based analysis in disbarment actions).

As a result of the state court disbarments, this Court issued an Order to Show Cause for Mr. Stein to state why the imposition of identical discipline would be unwarranted and the reasons thereof. Mr. Stein filed a response to the Order to Show Cause, raising multiple due process violations and a lack of record proof to support the claimed violations of the New Mexico Rules of Professional Conduct. None of these claims have merit.

As for Mr. Stein’s allegations of due process violations, review “is narrowly defined . . . as [to] ‘want of notice or opportunity to be heard.’” *Matter of Calvo*, 88 F.3d at 967 (quoting *Selling*, 243 U.S. at 51). Mr. Stein alleges an inadequate Specification of Charges; an improper limitation of discovery; unnoticed recognition of a violation of a court order; and consideration of actions protected by his First Amendment Rights without notice.

A review of the Specification of Charges clearly establishes that Mr. Stein was provided adequate notice of the alleged disciplinary violations against him. Each violation identified the applicable disciplinary rule and facts in support.

The opinion by the New Mexico Supreme Court indicated that Mr. Stein “received the entire disciplinary board file prior to the hearing. All of the exhibits were available to him, there was nothing he had not seen before, and there was no allegation by [Mr. Stein] that he was, in fact,

specifically prejudiced by any lack of discovery.” *Stein*, 143 N.M. at 476. No discovery violation is apparent on the record.

The contention that Mr. Stein was not given notice that his violation of a court order would be considered is also unsupported by the record. Not only did the Specification of Charges identify the violation of the order and the applicable disciplinary rule violation, the hearing committee had discussed the violation with Mr. Stein, as recognized in the New Mexico Supreme Court decision. *Id.* at 478.

Mr. Stein’s final violation of due process allegation lacks legal support. Mr. Stein’s expression of displeasure with the New Mexico disciplinary board members on his website was considered by the Supreme Court of New Mexico as an example of Mr. Stein’s inability to grasp how his conduct falls below the standards set for attorneys or the professional obligations he is to follow. *Id.* at 478-79. Consideration of the statements is not a violation of Mr. Stein’s First Amendment rights because they were only used as evidence relevant to the determination of the disciplinary sanction to be imposed. *See In re Kramer*, 282 F.3d 721, 726 (9th Cir. 2002) (Court allowed consideration of statements made by the accused attorney because he “was not disbarred in New York *for making* his bold statement to the reporter; rather, that statement was evidence-along with his extensive prior disciplinary history-relevant to the determination of what sanction would impose sufficient discipline and deter future misconduct.”).

Mr. Stein also argues that there was a complete lack of proof in the record to support any of the claimed violations. This argument has not been supported by record evidence or argument. In order to sustain an allegation of an “infirmity of proof,” the defendant “must do more than state the existence of his defense.” *Committee on Grievances of the U.S. Dist. Court for Eastern Dist. of New York v. Feinman*, 238 F.3d 498, 507 (2d Cir. 2001); *see also In re Kramer*, 282 F.3d at 727 (“*Kramer*

presents only conclusory assertions of insufficient proof, and those are insufficient to show a violation of the second prong of *Selling*.”).

Mr. Stein raises affirmative defenses in regards to this Florida disbarment as well. A review of these defenses is unnecessary in light of this Court’s acceptance of the grounds for disbarment by the Supreme Court of New Mexico. *See* Rule 5(e), S.D. Fla. Rules Governing Attorney Discipline. Nevertheless, under Florida law, “the introduction in evidence of a properly authenticated judgment of discipline entered by a competent agency of a sister state shall operate as conclusive proof of guilt of the acts of misconduct adjudicated in that judgment” unless “the accused attorney shows that the proceeding in the foreign state was so deficient or lacking in notice or opportunity to be heard, that there was such a paucity of proof, or that there was some other grave reason which would make it unjust to accept the foreign judgment as conclusive proof of guilt.” *The Florida Bar v. Wilkes*, 179 So. 2d 193, 197, 198 (Fla. 1965). Mr. Stein raised the same due process arguments he does now in Florida. These arguments were appealed to the Florida Supreme Court, which found them to be without merit. *See The Florida Bar v. Stein*, 2010 WL 711847, No. SC08-1108 (Fla. Feb. 26, 2010).

Having been disbarred and having failed to present any ground to prevent reciprocal disbarment, it is ORDERED that Mr. Stein is hereby disbarred from the Southern District of Florida.

IT IS FURTHER ORDERED that the Clerk of Court shall immediately strike this attorney from the roll of attorneys eligible to practice in the United States District Court for the Southern District of Florida, and shall also revoke the attorney’s CM/ECF password.

IT IS FURTHER ORDERED by this Court that said attorney advise the Clerk of Court of all pending cases before this Court in which he is counsel or co-counsel of record.

IT IS FURTHER ORDERED by this Court that the Clerk of Court serve by certified mail a copy of this Order of Reciprocal Disbarment upon the attorney at his court record address.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 14 day of July, 2010.



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FEDERICO A. MORENO  
CHIEF UNITED STATES DISTRICT JUDGES

- c: Honorable Joel F. Dubina, Chief Circuit Judge, Eleventh Circuit Court of Appeals  
All Miami Eleventh Circuit Court of Appeals Judges  
All Southern District and Magistrate Judges  
United States Attorney  
Circuit Executive  
Federal Public Defender  
Clerk of Court, 11th Circuit  
Clerk of Court  
National Lawyer Regulatory Data Bank  
Florida Bar  
Attorney Admissions Clerk  
Library  
Stuart L. Stein