

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2015-69

**IN RE: REPORT AND RECOMMENDATION  
REGARDING HOWARD W. RUBINSTEIN  
OF AD HOC COMMITTEE ON ATTORNEY  
ADMISSIONS, PEER REVIEW AND  
ATTORNEY GRIEVANCE**

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FILED by <u>KS</u> D.C. ELECTRONIC
<b>October 23, 2015</b>
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S. D. OF FLA. · MIAMI

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court on a Report and Recommendation from the Ad Hoc Committee on Attorney Admissions, Peer Review and Attorney Grievance (the “Committee”) filed pursuant to Rule 5(f) of the Rules Governing Attorney Discipline, Local Rules of the United States District Court for the Southern District of Florida, with respect to attorney Howard W. Rubinstein.

This matter initially came to the attention of the Court by a letter from the State Bar of Texas, Office of Chief Disciplinary Counsel, which enclosed a copy of an August 5, 2014 Judgement of Probated Suspension by the District Court of Travis County, Texas, 98th Judicial District. *See Commission for Lawyer Discipline v. Rubinstein*, No. D-1-GN-13-001156 (Dist. Ct. of Travis County, 98th Judicial Distr. of Texas, Aug. 5, 2014). Mr. Rubinstein did not independently inform this Court’s Bar of this suspension as required by Rule 5(a) of the Rules Governing Attorney Discipline. This suspension prompted the Court to issue an Order to Show Cause as to why Mr. Rubinstein should not be identically disciplined. Mr. Rubinstein filed a Response through his attorney, enclosing the file from the Texas proceeding, stating that he had no objection to the imposition of identical discipline. From the information provided, the Judgment of Probated Suspension found Mr. Rubinstein guilty of professional misconduct for violating certain Texas Rules of Disciplinary Procedure, mainly due to his failure to disclose his disciplinary

history on eleven applications for *pro hac vice* status in various courts. Based upon that Response and file, this Court concluded that the matter warranted further investigation and referred the matter to the Committee. The Committee appointed a subcommittee to evaluate the matter.

The subcommittee made additional inquiries relating to Mr. Rubinstein's court filings in this Court. It was discovered that Mr. Rubinstein made appearances in four cases in the Southern District of Florida in 2009 and 2010 without being a member of the bar and without *pro hac vice* admission.

Mr. Rubinstein appeared before the full Committee on May 11, 2015 with his attorney. Mr. Rubinstein testified and admitted to being "fully responsible" for all representations that were made that led to his Texas suspension while offering a variety of excuses, such as relying upon local counsel to fill out the applications and not carefully reading the applications or keeping abreast of changes in the application requirements. While he accepted responsibility for his actions in the Southern District, he made similar excuses. After careful deliberation, the Committee found troubling the number of instances in which Mr. Rubinstein failed to comply with this Court's rules and that when he was made aware of the misrepresentations in other jurisdictions, he took no steps to correct them. In the Committee's May 26, 2015 Report, it recommended that Mr. Rubinstein's permission to practice in the Southern District of Florida be revoked.

On June 8, 2015, Mr. Rubinstein, through counsel, requested thirty days to file a response to the Committee's report. This Court granted the request, providing Mr. Rubinstein a full and fair opportunity to review the Committee's recommendation and respond. Mr. Rubinstein submitted a response on July 29, 2015.

Pursuant to Rule 3(e) of this Court's Rules Governing Attorney Discipline, the undersigned submitted this matter to the Court for its consideration at a regularly scheduled

Judges' meeting held on October 1, 2015. Having reviewed the Report and Recommendation and Mr. Rubinstein's response thereto, the attachments, hearing transcripts, and having otherwise considered the matter, by unanimous vote of the Judges in attendance, the Court approved the Committee's Report and Recommendation. Given this background, in accordance with Rule 3(e) and the Court's inherent power to regulate membership in its bar for the protection of the public interest, *see Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) ("[A] federal court has the power to control admission to its bar and to discipline attorneys who appear before it."),

IT IS ORDERED that said attorney be disbarred from practice in this Court, effective immediately. The attorney may not resume the practice of law before this Court until reinstated by Order of this Court. *See* Rule 9(a). The Clerk of Court shall 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 immediately 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 Disbarment upon the attorney at his court record address.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 22nd day of October, 2015.



Kevin Michael Moore  
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K. MICHAEL MOORE  
CHIEF UNITED STATES DISTRICT JUDGE

c: All Miami Eleventh Circuit Court of Appeals Judges  
All Southern District Judges  
All Southern District Bankruptcy Judges  
All Southern District Magistrate Judges  
United States Attorney  
Circuit Executive

Federal Public Defender  
Clerks of Court – District, Bankruptcy and 11<sup>th</sup> Circuit  
Florida Bar and National Lawyer Regulatory Data Bank  
Library  
Howard W. Rubinstein