

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE # 18-MC-25055

ADMINISTRATIVE ORDER 2019-37

In Re: HOWARD W. RUBINSTEIN  
Florida Bar #104108

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FILED BY     CW     D.C.

May 21, 2019

ANGELA E. NOBLE  
CLERK U.S. DIST. CT.  
S. D. OF FLA. - MIA

**ORDER OF DISBARMENT**

THIS MATTER is before the Court upon remand from the United States Court of Appeals for the Eleventh Circuit. *See In re Rubinstein*, 756 F. App'x 892 (11th Cir. 2018). The Eleventh Circuit vacated this Court's October 23, 2015 Order Adopting Report and Recommendation disbaring attorney Howard W. Rubinstein from the practice of law before the United States District Court for the Southern District of Florida but noted "that [its] decision does not affect the portion of the proceedings regarding reciprocal discipline based upon the Texas Judgment."<sup>1</sup> *Id.* at 897. The Eleventh Circuit instructed:

On remand, then, the Southern District is free to enter a new order imposing reciprocal discipline without any further process. And, because Rubinstein had full and fair due process as to the Texas Judgment and the Southern District's Local Disciplinary Rule 3<sup>2</sup> provides notice that any sanction may be imposed when reciprocal discipline is considered, nothing herein restricts the Southern District as to what the appropriate discipline should be based on solely the Texas Judgment.

*Id.* On December 26, 2018, the Eleventh Circuit issued its mandate and this Court set the matter for a hearing for "further proceedings consistent with [the Eleventh Circuit] decision." (ECF No.

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<sup>1</sup> While this matter concerns the reciprocal discipline based upon the Texas Judgment, the Court is also proceeding in a separate matter with discipline against Rubinstein for not reporting the Texas discipline to this Court and having made appearances in four cases before this Court without being admitted to this Court's Bar or having filed an application for *pro hac vice* admission.

<sup>2</sup> Rule 3(e) of this Court's Rules Governing Attorney Discipline (2016) states that "the Court may, after considering the attorney's response . . . fashion whatever penalties provided by the rules which it deems appropriate."

21). On January 17, 2019, Rubinstein appeared for a sealed hearing before the United States Chief District Judge K. Michael Moore to discuss how Rubinstein wanted to proceed in light of the Eleventh Circuit's decision. Rubinstein requested until April 30, 2019 to file written objections as to the appropriate reciprocal discipline to be imposed, which the Court granted. Rubinstein submitted his response, arguing that his punishment "should be a probated suspension of two years, or the same punishment as in the Texas Judgment" and that his "punishment should be considered time-served," as he has been suspended since the October 23, 2015 Order of Disbarment. (ECF No. 29) at 1. Rubinstein reasoned that imposing identical punishment would be "consistent with how the Southern District has treated reciprocal punishment cases previously" and that it would be "consistent with the punishment issued by the Florida Supreme Court in this same matter." *Id.* at 2.

Pursuant to Rule 3(e) of this Court's Rules Governing Attorney Discipline (2016), this matter was taken up at a regularly scheduled Judges' Meeting held on May 16, 2019. By unanimous vote of all active judges and senior judges eligible to vote, Rubinstein is to be disbarred from practice in this Court.

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 Rubinstein is disbarred from practice in this Court, effective immediately. Rubinstein 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 this 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 Rubinstein at his court record address and to Rubinstein's attorney.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 21st day of May, 2019.

**K. Michael Moore** Digitally signed by K. Michael Moore  
DN: cn=K. Michael Moore, o=Southern District of Florida, ou=United States District Court, email=k\_michael\_moore@flsd.uscourts.gov, c=US  
Date: 2019.05.21 13:17:10 -0400

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K. MICHAEL MOORE  
UNITED STATES CHIEF 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  
Clinton S. Payne, Chair, Ad Hoc Committee on Attorney Admissions, Peer Review, and  
Attorney Grievance  
Joel Oster, Esq., counsel for Howard W. Rubinstein  
Howard W. Rubinstein