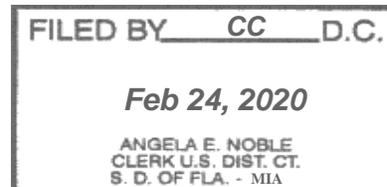


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2020-11
CASE NO. 18-MC-25276

In re: **HOWARD W. RUBINSTEIN**
FLORIDA BAR # 104108



ORDER ON REPORT AND RECOMMENDATION

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, in part¹ 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 and remanded it back to this Court for further proceedings. The Eleventh Circuit instructed that upon remand, this Court "may choose to consider disciplining Rubinstein for his other alleged conduct in Florida, provided it complies with the procedures outlined in its rules." *Id.* at 897.

Following remand, this Court referred this matter back to the Ad Hoc Committee on Attorney Admissions, Peer Review, and Attorney Grievance ("Committee") pursuant to Local Rule 3(a)² of the Rules Governing Attorney Discipline, Local Rules of the United States District Court for the Southern District of Florida ("Attorney Rules"). (ECF No. 18). The Order of Referral instructed the Committee "to conduct disciplinary proceedings regarding attorney

¹ This Court's disciplinary order resulted from reciprocal discipline based upon a Texas Judgment and a separate investigation into Rubinstein's conduct in Florida. The Eleventh Circuit specifically noted "that [its] decision does not affect the portion of the proceeding regarding reciprocal discipline based upon the Texas Judgment." *Id.* at 897.

² All references herein are to the rules prior to the 2017 amendments as requested by Rubinstein. (ECF No. 16).

Rubinstein's actions in Florida as outlined in the Committee's May 26, 2015 Report and Recommendation, specifically Rubinstein's (1) failure to inform this Court's Bar of this Texas Judgment and (2) appearances in four cases in the Southern District of Florida between 2009 and 2010 without being a member of the bar and without *pro hac vice* admission." *Id.*

Pursuant to Rule 3(c), the Committee issued a Report and Recommendation on March 21, 2019, in which it determined "that probable cause exists to proceed against Mr. Rubinstein" and requested that this Court issue an Order to Show Cause. (ECF No. 19). A Rule 3(c) Order to Show Cause was issued by this Court on March 26, 2019, instructing Rubinstein to show cause as to why he should not be disciplined based upon the acts identified in the Order of Referral and more fully described in the Committee's March 21, 2019 Report and Recommendation. (ECF No. 20). Rubinstein thereafter submitted a Response to the Order to Show Cause. (ECF No. 21). Following a hearing before the Committee on July 29, 2019, the Committee issued a Report and Recommendation, specifically noting that "Mr. Rubinstein acknowledged that he was given a fully [sic] opportunity to present his position at the hearing." (ECF No. 23). The Committee recommended that: (1) "a suspension of six (6) months, which can run concurrently with [Rubinstein's] now-appealed disbarment," be given regarding Rubinstein's failure to inform this Court of his Texas probated suspension; (2) no discipline be given regarding Rubinstein's four appearances in this Court without being a member of this Court's bar or applying for Pro Hac Vice admission; and (3) "prior to Mr. Rubinstein being allowed to practice in this Court[,]. . . he [shall] take a law office management course, approved by the Committee [and] should Mr. Rubinstein be operating out of more than one office, he shall—for a two-year period after being allowed to practice in this Court—provide the Committee with a written report as to the procedure and by whom his mail will be handled, opened and forwarded to him for his reading and consideration." *Id.*

This Court, pursuant to Rule 3(e), issued an order requiring Rubinstein to show cause why the Committee's recommendations should not be adopted by the Court. (ECF No. 24). Rubinstein responded on December 23, 2019, stating that he "does not contest the imposition of the discipline recommended by the Ad Hoc Committee" and would like the record to reflect "that he did contact the Florida Bar to report the Texas Probated Suspension." (ECF No. 28).

Pursuant to Rule 3(e), the undersigned submitted this matter to the Court for its consideration at a regularly scheduled Judges' Meeting held on February 6, 2020. Having reviewed the Report and Recommendation and Rubinstein's response thereto, the attachments, hearing transcripts, and having otherwise considered the matter, by unanimous vote of the Judges in attendance, the Court approves and adopts 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 suspended for six (6) months, effective immediately and which is to run concurrently but independently with his disbarment. Should his now-appealed disbarment be overturned, he would remain suspended for the duration of the suspension period. The attorney may not resume the practice of law before this Court until reinstated by order of this Court. *See* Attorney Rule 9(a).

IT IS FURTHER ORDERED by this Court that Rubinstein may not petition for reinstatement until he has taken a law office management course, approved by the Committee, and appeared before the Committee for a report and recommendation. (ECF No. 23) at 11. In addition, upon reinstatement, if Rubinstein intends to operate out of more than one office, he shall, for a two-year period, provide the Committee with a written report as to the procedure and by whom

his mail will be handled, opened and forwarded to him for his reading and consideration.

IT IS FURTHER ORDERED by this Court that the Clerk of Court serve by certified mail a copy of this Order on Report and Recommendation upon Rubinstein at his court record address and upon Rubinstein's attorney of record.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 24th day of February, 2020.



K. MICHAEL MOORE
UNITED STATES CHIEF DISTRICT JUDGE

c: All South Florida 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 11th Circuit
Florida Bar and National Lawyer Regulatory Data Bank
Library
William C. Hearon, Acting Chair, Ad Hoc Committee on Attorney Admissions, Peer
Review, and Attorney Grievance
Joel Oster, Esq., Counsel for Howard W. Rubinstein
Howard W. Rubinstein